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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके

Separate paging is given to this Part in order that it may be filed as a separate compilation

भाग III—खण्ड 3

PART III—SECTION 3

लघु प्रशासनों से संबंधित अधिसूचनाएं

Notifications relating to Minor Administrations

UNION TERRITORY OF DADRA & NAGAR HAVELI

STATUTORY RULES

Silvassa, the 27th June 1966

The Dadra and Nagar Haveli Co-operative Societies Rules, 1966

No. ADM/LAW/6—In exercise of the powers conferred by Section 168 of the Gujarat Co-operative Societies Act, 1961 (Gujarat Act, No. X of 1962) as extended to the Union Territory of Dadra and Nagar Haveli, the Administrator, Dadra and Nagar Haveli hereby makes the following rules, a draft of the same having been previously published as required by sub-section (3) of the said section of the said Act, namely :—

CHAPTER I

PRELIMINARY

1. *Short title*—These rules may be called The Dadra and Nagar Haveli, Co-operative Societies Rules 1966.

2. *Definitions*—In these rules unless there is anything repugnant to the subject or context—

- (i) "The Act" means the Gujarat Co-operative Societies Act, 1961 as extended to the Union Territory of Dadra and Nagar Haveli.
- (ii) "Adjudicating Authority"—means in relation to any disputes under this Act the Registrar or his nominee or Board of nominees appointed for the settlement of such disputes under the Act.
- (iii) "Form" means a form appended to these rules.
- (iv) "Recovery Officer" means a person subordinate to the Registrar who is empowered to exercise the powers of the Registrar under Section 159.
- (v) "Sale Officer" means an officer empowered by the Registrar by a general or special order to attach and sell the property of a defaulter or to execute any decree by attachment and sale under Section 159 or a person effecting a sale in pursuance of the provisions of Section 134, as the case may be.
- (vi) "Section" means a section of the Act.

CHAPTER II

REGISTRATION

3. *Application for registration*—Every application for registration of a society under sub-section (1) of section 8 shall be in form A and shall be accompanied by—

- (a) a certificate from the bank of BARODA Vapi Branch or such other bank as the Registrar, may from time to time specify stating the credit balance in favour of the proposed society therein.

- (b) a list of persons who have contributed to the share capital together with the amount contributed by each of them, and the entrance fee paid by them, and

- (c) the schemes showing the details explaining how the working of the society will be economically sound and where the scheme envisages the holding of immovable property by the society, the description of the immovable property proposed to be purchased, acquired or transferred to the society.

4. *Maintenance of registers*.—(1) The register to be maintained by the Registrar under Section 10 shall be in Form B.

(2) The Registrar shall assign for each class or sub-class of society, a code symbol, for giving registration numbers to the societies and the societies shall be registered from the dates specified by him.

5. *Bye-laws*.—(1) Where a society has been registered, the bye-laws submitted under sub-section (1) of section 8 shall, subject to any modifications approved by the Registrar and adopted at a general meeting having a quorum by a majority of not less than two-thirds of the members present and voting, become the bye-laws of the society.

(2) Every society shall make bye-laws on the matters mentioned below :—

- (a) The name and address of the society and its branches, if any;
- (b) the class or occupation of its members, if the membership is proposed to be so restricted;
- (c) the area of its operation;
- (d) the object of the society and its liability limited or unlimited;
- (e) the terms and qualifications for admission to membership, and their rights and liabilities; the consequences of default in payment of any sum due by a member; and in case of credit societies, the conditions on which loans may be granted the rate of interest; system of calculation of interest; and in the case of non-credit societies, the mode of conducting business; purchase, sale stock-taking and other like matters;
- (f) the privileges, rights and liabilities of nominal, associate and sympathiser member;
- (g) payments and acquisition of interest in the society before the rights of membership are exercised by the member;

- (h) rights of voting by nominal, associate or sympathiser member and the voting right of a federal society;
- (i) restrictions on borrowing from members and non-members;
- (j) the manner in which the loss of the society will be determined and its reimbursement by a member who has not disposed of his produce through the society and who is found guilty of a breach of the bye-laws or of any such contract;
- (k) the scale of remuneration to be paid to a member who has rendered any service to the society;
- (l) appropriation of profit for any other purpose which is not provided in section (2) of section 65;
- (m) the manner of summoning a general meeting under section 73 and the manner of making, altering and abrogating bye-laws;
- (n) the constitution of the managing committee and its powers and duties;
- (o) the items of business to be transacted in the annual general meeting which are not provided in sub-section (4) of section 77;
- (p) the number of members required for the requisition of the special general meeting;
- (q) the utilisation of surplus assets of the society under section 115;
- (r) the manner in which capital may be raised;
- (s) the mode of custody, and investment of funds;
- (t) the distribution of profits.

6. *Amendment of bye-laws*—Bye-laws may be made, altered or abrogated by a resolution passed at a general meeting of the society;

Provided that—

- (a) due notice of any proposal to make, alter or abrogate the bye-laws is given in accordance with the bye-laws to the members of the society;
- (b) the resolution is passed by not less than two-thirds of the members present, and voting at a general meeting, at which if a quorum is not present within half an hour from the time appointed for holding the meeting, the members present shall form a quorum and a copy of the resolution is forwarded to the Registrar within a period of two months from the date of the meeting;
- (c) a copy of the existing bye-law or bye-laws so marked as to show the alterations proposed to be made, and four copies of the proposed amendments signed by the Chairman of the society, shall be attached to the copy of the resolution along with a copy of the notice and other information required by the Registrar.

7. *The manner of calling upon a society to make amendments under section 14*.—For the purposes of sub-section (1) of section 14, the Registrar may call upon a society to make the amendment by serving upon it a notice in Form C. Such notice shall contain a draft of the amendment proposed by the Registrar.

(2) The society thereupon shall call a special general meeting for the purpose of making such amendments and if the amendments are approved by the special general meeting it shall be forwarded to the Registrar who shall register the amendment and issue to the society a certified copy thereof.

8. *Procedure for change of name*—Where a society proposes to change its name under section 15 it shall do so by an amendment of its bye-laws.

9. *Procedure for obtaining sanction under 17(1)*—(1) Where a society proposes to amalgamate itself with another society or to transfer its assets and liabilities, in whole or in part to any other society or to divide itself into two or more societies or to convert itself into another class of society or to change its object, it shall prepare a draft scheme in that behalf having regard to the provisions of sub-section (2) of section 17 and place the same before the special general meeting of its members.

(2) If the special general meeting approves of the draft scheme, with or without modifications by a resolution passed by two-thirds majority of the members present and voting at the meeting, the society shall forward a copy

of the resolution and a copy of the draft scheme as approved by the special general meeting to the Registrar requesting him to accord his sanction to the proposal.

(3) If the Registrar accords his [previous] sanction to the proposal, the society shall proceed to take further steps in accordance with the provisions of section 17.

10. *Reconstruction of a society*—(1) An Application for reconstruction of a society under section 19 may be made in Form D. On receipt of such application the Registrar may, taking into consideration the compromise or arrangement for reconstruction of the society, if he thinks fit, prepare a draft order indicating —

- (i) the manner in which the amounts payable by the society to its creditors should be paid and the amounts recoverable from its debtors members should be recovered;
- (ii) the manner in which the share capital, if any, of such members should be reduced;
- (iii) the manner in which the scheme of reconstruction should be implemented; and
- (iv) the manner in which the bye-laws of the society will stand amended in order to give effect to the scheme of reconstruction.

A copy of the draft order shall be exhibited on the notice board of the society and [a copy thereof shall be exhibited on the notice board] of the Registrar's office inviting objections and suggestions from all those interested within a specified time, which shall not exceed one month.

(2) After taking into consideration the objections and suggestions (if any) received, the Registrar may issue an order approving of such reconstruction or staying further proceedings in respect of such reconstruction. On issue of an order approving the reconstruction, the society shall stand reconstructed and the bye-laws of the society shall stand modified to that effect and to that extent.

CHAPTER III

MEMBERS AND THEIR RIGHT AND LIABILITIES

11. *Person who may become a member*—A firm or a company may be admitted as a member only of a society which is a federal society or an urban society or which conducts or intends to conduct an industrial undertaking.

Explanation.—For the purpose of this rule, an urban society means a society, the business of which mainly falls within the limits of a municipal corporation, municipality, cantonment or notified area committee.

12. *Open membership*—No Seva Sahkari Mandali or Consumer's Society shall without sufficient cause refuse admission to membership to any person duly qualified therefor under the provisions of the Act and the bye-laws.

Explanation.—A Seva Sahkari Mandali includes a Multi-purpose Society and a primary agricultural credit Society.

13. *Classes of societies eligible for admitting nominal, associate or sympathiser members*.—(1) A society of any class may admit any person as a nominal member.

(2) A society formed for the uplift of backward classes or scheduled tribes, a labour contract society, a Forest Labourers' Society, a processing society or an industrial or society may admit any person as an associate or sympathiser member.

14. *When right of membership can be exercised*—Subject to the provisions of the Act, no person shall exercise the rights of a member of a society unless—

- (1) he has paid an entrance fee as laid down in the bye-laws of the society;
- (2) he has subscribed for at least one share and made the payment towards the share money as laid down in the bye-laws of the society;
- (3) he has fulfilled all such conditions as are laid down in the bye-laws of the society for exercising the rights of a membership.

15. *Voting rights of individual members in a federal society*—(1) In the case of federal societies, the voting rights of individual members (which term shall include firm, company or body corporate, society registered under the Society's Registration Act, 1860 and the Administration but shall not include a society as defined in section 2(19) of the Act may be regulated as follows :—

- (a) Immediately after the 30th June of every year and as soon as possible before the annual general meeting, individual members admitted to membership up to 30th June of the preceding

year (hereinafter referred to as the relevant date) shall elect delegates equal to one fourth of the numbers of the societies admitted to membership up to the relevant date or one delegate for every twentyfive individual members (fractions being neglected) whichever is less. The delegates so elected will continue in office till their successors are elected after 30th June next.

(b) Every society through its properly authorised representatives and every delegate referred to in clause (a) above shall have one vote in the general meeting.

(c) The quorum for the meeting shall be one fifth of the total number of delegates and representatives of the society or 25 whichever is less.

Provided that the delegate shall not at any time in meeting exceed one fourth of the number of representatives of the societies.

(d) The election of delegates shall be held in accordance with the provisions of the bye-laws.

(e) Any vacancy of a delegate caused on account of cessation of membership shall be filled by the delegates by co-opting one of the individual members.

(2) Unless otherwise provided by the Registrar in respect of any particular society the delegates on the committee or Board of Directors as the case may be shall not at any time exceed one third of the number of representatives of societies (fractions being neglected).

16 *Restriction on holding of shares*—No member other than co-operative Society or the Central Government or the Administration shall hold more than one fifth of the paid up share capital of the society.

17 *Restrictions on transfer of shares or interests*—(1) Where the transfer of or charge on the share or interest of a member in the capital of a society is intended to be made to the society, the society may acquire such share or interest by making payment for it by ascertaining the value of such share or interest in the manner laid down in sub-rule (2).

Provided that the total refund of share capital of such society shall not exceed in any one year 10 per cent of the paid up share capital of the society on the last day of the preceding year.

(2) The value of the share or interest shall be—

(a) in the case of a society with unlimited liability, the actual amount received by the society in respect of such share or interest.

(b) in the case of a society with limited liability, the amount arrived at by a valuation based on the financial position of the society as shown in the latest audited balance sheet.

Provided that such valuation shall not exceed the actual amount received by the society in respect of such share or interest.

18 *Procedure for the transfer of shares*—(1) No transfer of share shall be effective unless—

(a) it is made in accordance with the provisions of the bye-laws.

(b) a clear fifteen days notice in writing is given to the society indicating therein the name of the proposed transferee, his consent, his application for membership, where necessary, and the value proposed to be paid by the transferee.

(c) all liabilities of the transferor due to the society are discharged and

(d) the transfer is registered in the books of the society.

(2) Any charge in favour of the society on the shares so transferred will continue unless discharged otherwise.

19 *Transfer of interest on death of a member*—(1) Every member of the society who is permitted by or under this Act to transfer his share or interest on death to any person shall by a statement signed by him in the register of members kept under section 39, nominate any person to whom under section 31, the value of his share or interest in the society or so much thereof as may be specified in the nomination shall be paid or transferred on his death.

(2) A nomination so made may be revoked or varied by a subsequent nomination similarly made.

(3) In case the nominee of the member dies, the member shall report the death to the society.

(4) The value of the share or interest for the purpose of sub-section (2) of section 31 shall be the amount as ascertained under sub-rule (2) of rule 17.

20 *Rights of members to see books, etc.*—(1) A society shall furnish on an application by a member, a certified copy of any of the documents mentioned in sub-section (1) of section 33 on payment of fees according to the following scale, namely—

(a) For the first 200 words or less—

(i) in English 25 Ps

(ii) in regional language 25 Ps

(b) for every additional 100 words or fraction thereof—

(i) in English 15 Ps.

(ii) in regional language 15 Ps

(2) A uniform extra copying fee of Pe 1 per copy shall be charged on an application for a copy required by the applicant, is got ready within 48 hours, provided that the document of which the copy is sought is in existence urgently.

(3) An application under sub-rule (1) shall be accompanied by a deposit of an amount to cover the cost of preparation of certified copies according to the scale prescribed in the said sub-rule (1).

(4) The copies shall be certified and signed as true copies by the Chairman, Vice Chairman, Secretary or a member or any other person authorised by the bye-laws of the society.

CHAPTER IV

INCORPORATION, DUTIES AND PRIVILEGES OF SOCIETIES

21 *Procedure for registering the address of a society and the change of its address*—(1) Every society shall incorporate in its bye-laws its address at the time of registration of its bye-laws. When the address of the society is subsequently changed the bye-laws shall be amended so as to incorporate therein such changed address.

(2) The address specified in the bye-laws shall be the registered address of the society.

22 *Register of members*—The society shall where the liability of the members is limited by shares, enter in the register kept under Section 39, the total number of shares and the amount paid towards the capital by the members.

23 *Manner of certifying of copy of entry as evidence*—A copy of entry in any book, register or list, regularly kept in the course of business and in the possession of the society for the purposes specified in sub-section (1) of section 41 shall be certified—

(a) by any officer of the society duly authorised in that behalf by the committee under the seal of the society.

(b) where an order has been passed under section 107 and] a liquidator has been appointed under section 108 shall bear the society's seal,

(c) where an Administrator is appointed under section 81, by the Administrator or where a committee consisting of one or more members is appointed under Section 81, by one member only, where the committee consists of one member or by two members where the committee consists of more than one member and shall bear the society's seal.

24 *Restrictions on borrowing by or for etc.*—(1) Except with the previous sanction of the Registrar, no society shall incur liability exceeding in total the following limits, that is to say—

(a) if it be a land development bank twenty times the total amount of its paid up share capital, accumulated reserve fund and building fund minus accumulated losses.

(b) if it be a co-operative bank fifteen times, the total amount of its paid up share capital and all accumulated reserves and other funds minus accumulated losses, actual bad debts, if any, and over due interest.

(c) if it be a central bank, urban bank or producers' society, twelve times the total amount of its paid up share capital, accumulated reserves fund and building fund minus accumulated losses.

- (d) if it be a society with limited liability but not falling under clause (a), (b) or (c) above, ten times the total amount of its paid up share capital, accumulated reserve fund and building fund minus accumulated losses,

(2) In calculating the total amount of liability under sub-rule (1)—

- (a) in case of a co-operative bank, a sum equal to the amount borrowed by the bank on the security of agricultural produce or other goods belonging to the members of the bank shall be excluded from the amount of the liability actually incurred,
- (b) in the case of any other society the bye-laws of which permit borrowing or granting credit facilities on the pledge of agricultural produce or other goods specified in that behalf by the Registrar by general or special order, a sum equal to the amount borrowed by the society on the security of agricultural produce or other goods belonging to it or its members shall be excluded from the amount of the liability actually incurred.

(3) Every society with unlimited liability may from time to time, fix in general meeting the extent to which it may receive loans and deposits from persons other than members. The maximum so fixed shall be subject to the sanction of the Registrar, who may at any time reduce it for reasons to be communicated by him to the society in writing, and may specify a period not less than four months, within which the society shall comply with his orders.

25. *Regulations regarding debentures and bonds*—Any society, which is authorised under its bye-laws to raise funds, by the issue of debentures and bonds may, with the prior sanction of the Registrar, frame regulations regarding the maximum amount to be raised by the issue of debentures and bonds, the class or classes of debentures, and bonds, the face value of each debenture or bond, the date on which the debentures or bonds are to be redeemed, the rate at which interest is payable, the terms and conditions regarding transfer of debentures and bonds and other incidental matters.

26. *Maintenance of liquid resources and distribution of assets*—Every society which obtains any portions of its working capital by deposits shall,—

- (1) Maintain such liquid resources and in such forms as may be specified from time to time by the Registrar, and
- (2) utilise only such portion of its working capital in lending business and distributes its assets in accordance with such standard as may be specified from time to time by the Registrar.

27. *Form of declaration under section 49(1)(a)*—The declaration to be made in clause (a) of sub-section (1) of section 49 shall be in form E.

CHAPTER V

PROPERTY AND FUNDS OF SOCIETIES

28. *Honorarium*—The honorarium to be paid under sub-section (2) of section 65 shall not exceed five percent of net profits or Rs. 1000/- in a year whichever is less.

29. *Investments of funds*—(1) With the previous sanction of the Registrar, any society may invest its funds or a portion thereof—

- (a) in the purchase or leasing of lands or building, and in the construction of buildings :

Provided that the purchase of such land or the construction of such buildings is likely to be advantageous to the society in the conduct of its business.

(2) Notwithstanding anything contained in sub-rule (1), an urban co-operative bank as urban co-operative bank—

- (a) which has a paid up share capital of not less than Rs. 50,000 and a reserve fund not less than Rs. 50,000,
- (b) which has completed ten years from the date of its registration, and
- (c) which is classed A or B at the last audit made under section 84.

may invest its surplus funds in such shares or debentures of any company registered under the Company's Act, 1956, as may be approved by the Registrar.

30. *Restrictions on investment*—(1) The investment under rule 29 shall not at any time exceed 5 per cent of the deposit liabilities or 15 per cent of the surplus fund of the bank whichever is less;

(2) The investment in shares or debentures under rule 29 shall not exceed—

- (a) in the case of preference share 10 per cent
- (b) in the case of ordinary shares 5 per cent
- (c) in the case of debentures of the total surplus funds 15 per cent

provided that no investment shall be made under this sub-rule if it is likely to affect the ordinary business of the bank.

Explanation—For the purpose of this sub-rule "Surplus fund" shall mean such portion of the funds as are available for advancing loans to members but not so advance.

31. *Qualifications for members of the committee*—Every member of a society who is entitled to vote shall be eligible for appointment as member of a committee thereof if—

- (a) he is not in default in respect of any loan taken by him for such period as is specified by the bye-laws, or
- (b) he has not directly or indirectly any interest in any subsisting contract made with the society or in any property sold or purchased by the society or any other transaction of the society except in any investment made in or any loan taken from the society, or
- (c) if he is not otherwise disqualified for appointment as such member.

(2) notwithstanding anything contained in sub-rule (1), in case of societies dispensing credit, no person who does money lending business shall be eligible for appointment as member of the managing committee.

32. *Powers of the managing committee*—The managing committee of a society shall have among other powers, power—

- (i) to admit new members;
- (ii) to raise and invest funds;
- (iii) to appoint the salaried or non-salaried staff for the conduct of the business of the society and to define their duties;
- (iv) to dispose of applications for shares;
- (v) to dispose of applications for loans and to determine the security to be taken;
- (vi) to appoint sub-committees, and to define the powers to be delegated to them.

33. *Duties of managing committee*—It shall be the duty of the managing committee—

- (i) to receive and disburse money;
- (ii) to maintain accounts of money received and expended and the accounts of assets and liabilities;
- (iii) to prepare for submission for the annual general meeting an annual report of the working of the society and all such annual statements of accounts required to be placed before the general meeting under the act, rules and bye-laws;
- (iv) to prepare the statements of accounts and other statements required by the auditor for the purpose of audit;
- (v) to prepare and submit all statements, returns and periodicals returns required by the Registrar;
- (vi) to maintain an up-to-date register of members;
- (vii) to facilitate the inspection of books by those entitled to inspect;
- (viii) to convene general meetings on requisition;
- (ix) to convene annual general meeting in due time;
- (x) to watch the recovery of loans and examine the applications of loan;
- (xi) to examine and take prompt action in cases of all arrears and defaults in repayment of loans and advances,
- (xii) to perform such other duties as may be entrusted in the general meeting.

34. *Servant of society not to have interest in transaction, etc.*—(1) No officer or servant of society shall have any interest directly or indirectly otherwise than as such officer or servant—

- (a) in any contract made with the society, or
- (b) in any property sold or purchased by the society, or
- (c) in any transaction of the society except as investment made or as loan taken from the society or the provision of the residential accommodation by the society to any paid employee of the society, or any purpose of his requirement in any consumer society in which such requirements are being sold to the Public.

(2) No officer or servant of a society shall purchase directly or indirectly, any property of a member of a society sold for the recovery of his dues to the society.

35. *Date of making up of accounts, etc.*—The date of drawing up the accounts of a society shall be—

- (1) in case of farming society, 30th day of April every year,
- (2) in case of Forest Labourers' society or co-operative electricity society, 30th day of September of every year,
- (3) in the case of a cotton sale society, 31st day of October, every year, and
- (4) in the case of any other class of society, 30th day of June every year.

36. *Books of accounts, etc.*—Every society shall keep the following books of accounts :—

- (a) a register of members (including persons nominated) under section 39.
- (b) a register of shares (where capital is raised by shares).
- (c) A register of debenture, (where capital is raised by debentures).
- (d) A register of declaration made under section 49.
- (e) A share transfer register where capital is raised by shares.
- (f) A debenture transfer register where capital is raised by debentures.
- (g) Cash Account.
- (h) General Ledger.
- (i) Stock Register.
- (j) Members' Loan Register.
- (k) Deposit Account.
- (l) Loan Register.
- (m) Interest Account.
- (n) Expense Account.
- (o) Bank Account.
- (p) Minute Book, recording the proceedings of general meeting.
- (q) Minute book, recording the proceedings of the committee meetings.
- (r) Register of members' credit worthiness.
- (s) Such other accounts and books as may from time to time be specified by the registrar.

37. *Qualifications for Auditors.*—A person shall be qualified for being authorised by the Registrar under subsection (1) of section 84 if—

- (a) he is a chartered accountant within the meaning of the Chartered Accountants Act, 1949, or
- (b) he holds a Diploma in co-operative accounts or a Diploma in co-operation and accountancy, or
- (c) he has served as an Auditor in the co-operative department and whose name has been included by the Registrar in the panel of Auditors maintained by him and published in the Official Gazette at least once every three years.

38. *Requisition of a federal society for inquiry of its member-society.*—A federal society in respect of a society which is its members may, on an application properly supported by a resolution of its managing committee, and after giving an opportunity of being heard to such member-society, demand an inquiry by a Registrar under section 86.

39. *Board of nominees.*—Where the Registrar appoints a Board of nominees under section 98, he shall appoint one of the nominees, to be the Chairman of the Board. The Chairman so appointed shall fix the date, time and place of hearing the dispute referred to the Board and carry out the necessary correspondence in connection with the disposal of the dispute.

40. *Procedure of hearing a decision.*—(1) The adjudicating authority shall record a brief note in English or in Gujarati or Marathi language of the evidence of the party and witnesses who attend and upon the evidence so recorded and upon consideration of any documentary evidence produced by either side, a decision shall be given in accordance with justice equity and good conscience and it shall be reduced to writing. Such a decision shall be given in open court either at once or on some future date of which due notice shall be given to the parties.

(2) If any party duly summoned to attend fails to appear, the dispute may be decided *ex-parte*.

(3) Whether the adjudicating authority is a Board of Nominees, consisting of the Board of Nominees of two nominees and if their opinions differ regarding the decision, the adjudicating authority shall return the case to the Registrar with its notes of dissent and thereupon the dispute may be decided by the Registrar himself or the case may be forwarded to a fresh board of three nominees for decision.

(4) The decisions shall be communicated to the parties, by—

- (a) pronouncement of the award; or
- (b) registered post to any party which may be absent on such date.

(5) After the decision of the case, if the adjudicating authority is a nominee or a board of nominees it shall return all the case papers to the Registrar.

41. *Reference of a dispute.*—A dispute under section 96 shall be referred in writing in Form F and shall be accompanied by—

- (a) A certified copy of the relevant portion of the loan ledger, if the dispute is a money claim, and
- (b) such other statement of record as may be required by the Registrar.

42. *Summonses, notices and the fixing of dates, place, etc.*—(1) In proceedings for the settlement of disputes an adjudicating authority shall fix the date, hour and the place for hearing the dispute.

(2) The adjudicating authority may issue summonses or notices at least 15 days before the date fixed for hearing of dispute requiring—

- (i) the attendance of the parties concerned and of witnesses; and
- (ii) the production of all books and documents relating to the matter in dispute.

(3) (i) Summonses or notices issued by the adjudicating authority may be served personally or through the Mamlatdar, or any member of the Co-operative Department or any honorary organiser or chairman or secretary of the society or by registered post, acknowledgment due.

(ii) The serving officer shall, in all cases in which summons or notice has been served, endorse, or annex or cause to be endorsed or annexed on or to the original summons or notice and sent a return stating the time when and the manner in which the summons or notice was served, and the name and the address of the person (if any) identifying the person served and witnessing the delivery or the tender of the summons or the notice.

(iii) The person issuing the summons or notice may examine the serving officer on oath or cause him to be so examined by the Mamlatdar through whom it is served and may make such further inquiry in the matter as he thinks fit; and shall either declare that the summons or notice has been duly served or order it to be served in such manner as he thinks fit.

(iv) If the summons or notice is issued by the adjudicating authority under section 99 shall, if sent for service to a Mamlatdar, be served by such officer.

- (v) The mode of serving of summonses or notices under section 86 and 94 or to make an inspection under section 87 or by the auditor acting under section 84 by the liquidator appointed under section 108 and acting under section 108 shall be the same as provided in the foregoing provision of this sub-rule.

43. *Procedure for execution of awards.*—(1) Every order or award passed by the adjudicating authority under section 100 or 101 shall after the expiry of the period for appeal under section 102 be forwarded by the Registrar to the society or to the party concerned with instructions that it should be executed forthwith according to the provisions of section 103.

(2) If the amount due under the award is not forthwith recovered or the order is not carried out, the award or as the case may be, the order shall be forwarded by the society or the party concerned to the Registrar with an application for execution along with all other information required by the Registrar for the issue of certificate under section 103. The applicant shall state whether he desires to execute the award or as the case may be order by the civil court or through the Mamlatdar as provided under section 103 or through the Registrar as provided under section 159.

(3) Every order passed in appeal under section 102 shall also be executed in the manner prescribed under sub-rule (2).

44. *Transfer of property.*—(1) When in the execution of an order sought to be executed under section 103 any property cannot be sold for want of buyers, and such property is in the possession of the defaulter, or of some person on his behalf or of some persons claiming it under a title created by the defaulter subsequently to the issue of the certificate by the Registrar or the liquidator under the said section 103 the officer conducting the execution shall as soon as practicable report the fact to the court, to the Mamlatdar or the Registrar as the case may be, and to the society which applied for the execution of the said order.

(2) On receipt of a report under sub-rule (1), the society may within six months from the date of the receipt of the report or within such further period as may for sufficient reasons be allowed in any particular case by the court or the Mamlatdar or the Registrar, as the case may be, submit an application in writing to the court or to the Mamlatdar or the Registrar, as the case may be, stating the terms and conditions on which it agrees to take over such property.

(3) On receipt of an application under sub-rule (2), notices about the intended transfer shall be issued to the defaulter and to all persons known to be interested in the property including those whose names appear in the Record of Rights as persons holding any interest in the property.

(4) On receipt of such a notice, the defaulter or any person owning such property or holding an interest therein by virtue of a title acquired before the date of the issue of a certificate under section 103, may within one month from the date of receipt of such notice, deposit with the court or the Mamlatdar or the Registrar, as the case may be, for payment to the society a sum equal to the amount due under the order sought to be executed together with interest thereon and such additional sum for payment of cost and other incidental expenses as may be determined in this behalf by the court or the Mamlatdar or the Registrar as the case may be.

(5) On failure of the defaulter, or any person interested or any person holding an interest in the property to deposit the amount under sub-rule (4) the court or the Mamlatdar or the Registrar, as the case may be, shall direct the property to be transferred to the society on the conditions stated in the certificate in the Form G.

(6) The Certificate granted under the sub rule (5) shall state whether the property is transferred to the society in full or partial satisfaction of the amount due to it from the defaulter.

(7) If the property is transferred to the society in partial satisfaction of the amount due to it from the defaulter, the Court or the Mamlatdar or the Registrar as the case may be, shall, on the production by the society of a certificate signed by the Registrar, recover the balance due to the society in the manner prescribed in section 103.

(8) The transfer of property under sub rule (5) shall be effected as follows—

(i) in the case of movable property—

- (a) where the property is in the possession of the defaulter himself or has been taken possession of on behalf of the Court or the Mamlatdar or the Registrar, it shall be delivered to the society;
- (b) where the property is in the possession of some person on behalf of the defaulter, the delivery thereof shall be made by giving notice to the person in the possession directing him to give actual peaceful possession to the society and prohibiting him from delivering possession of the property to any other person;
- (c) the property shall be delivered to a person authorised by the society to take possession on behalf of the society.

(ii) In the case of immovable property,—

- (a) where the property is a standing or a growing crop it may be delivered to the society before it is cut and gathered and the society shall be entitled to enter on the land and to do all that is necessary for the purpose of tending, cutting and gathering it;
- (b) where the property is in the possession of the defaulter or of some person on his behalf or some person claiming under a title created by the defaulter subsequent to the issue of a certificate under section 103, the court or the Mamlatdar or the Registrar, as the case may be, shall order delivery to be made by putting the society or any person whom the society may appoint to receive delivery on its behalf in actual possession of the property and if need be by removing any person who illegally refuses to vacate the same the Registrar may refer the matter to the Mamlatdar for the execution of the order. The execution of the order shall be treated as the proceedings for the recovery of arrears of land Revenue and the Collector shall take actions under the provisions of organisation Agraria or under any other Revenue law for the time being in force in the union territory of Dadra and Nagar Haveli;
- (c) where the property is in the possession of the tenant or other person entitled to hold the same by a title acquired before the date of issue of a certificate under section 103, the court or the Mamlatdar or the Registrar, as the case may be, shall order delivery to be made by affixing a copy of the certificate of transfer of the property to the society on some conspicuous place on the property and proclaiming to such person by beat of drum or other customary mode at some convenient place, that the interest of the defaulter has been transferred to the society. The society shall be required to pay the expenses incidental to the sale including the cost of maintenance of live stock, if any, according to such scale as may be fixed by the Administrator from time to time.

(10) Where land is transferred to the society under Clause (ii) (a) of sub rule (8) before a growing or a standing crop is cut and gathered the society shall pay the current year's land revenue.

(11) The society shall forthwith report any transfer of property under Clause (ii) (b) or (c) of sub rule (8) to the Talati for the information and entry in the record of rights.

(12) The society to which the property is transferred under sub-rule (5) shall maintain for each such defaulter a separate account showing all the expenses incurred including payment or account of other encumbrances, land revenue and other dues on the property and all the income derived from it.

(13) The society to which property is transferred under sub rule (5) shall use its best endeavour to sell the property as soon as practicable to the best advantage of the society as well as that of the defaulter, the first option being always to be given to the defaulter who originally own the property. The sale shall be subject to con-

firmation by the Registrar. The proceed of the sale shall be applied to defraying the expenses of the sale and other expenses incurred by the society and referred to in sub rule (9) and (12) and to the payment of arrears due by the defaulter under the order in execution and the surplus (if any) shall then be paid to the defaulter.

(14) Until the property is sold, the society to which the property is transferred under sub-rule (5) shall use its best endeavours to lease it or to make any other use that can be made of it so as to derive the largest possible income from the property.

(15) When the society to which the property is transferred under sub-rule (5) has realised all its dues under the order in execution of which the property was transferred from the proceeds of the management of the property, the property, if unsold, shall be restored to the defaulter.

45. *Liquidation*.—A copy of an interim order made on the grounds specified in clause (a) or sub-clause (iv) of clause (c) of sub-section (1) of section 107 shall be communicated by registered post, to the society.

46. *Appointment of liquidator to be notified*.—The appointment of a liquidator made under sub-section (1) of section 108 shall be notified by the Registrar in the official gazette.

47. *Function and duties of the liquidator*.—(1) After the receipt of final orders from the Registrar confirming the interim order the liquidator shall publish by the such means as he may think proper a notice requiring all claims against the society to be notified to him within two months of the publication of the notice.

(2) The liquidator shall make separate orders against various members, past-members and others, noting the amount to be realised from each as a contribution under clause (h) of section 110 and as cost of liquidation under clause (k) of the said section. These orders shall be submitted for approval to the Registrar, who may modify them or refer them back to the liquidator for further inquiry or other action or may forward them for execution under section 103 of the Act.

(3) If the sum assessed against any member is not recovered the liquidator may frame subsidiary orders against any other member to the extent of the liability of each for the debts of the society, until the whole amount due from members is recovered and these orders shall be dealt in the same way as orders under sub-rule (2).

(4) The liquidator shall submit a quarterly progress report to the Registrar in such form as the Registrar may require.

(5) All funds in charge of the liquidator shall be deposited in the post office savings bank or in a Central Co-operative Bank or in the State Bank of India or any other Bank appointed for the purpose by the Registrar and shall stand in his name.

(6) At the conclusion of the liquidation proceedings a general meeting of the members of the society shall be called at which the liquidator shall summarise his proceedings, point out the cause of the failure of the society, and report what sum, if any, remains in the possession after meeting all the liabilities of the society as determined by him.

48. *Cost of hearing an appeal*.—No application under section 109 shall be entertained from a member unless it is accompanied by Rs. 25/- or such higher amount not exceeding Rs. 500/- in any case as may be ordered by the appellate authority as security for the cost of hearing the appeal.

49. *Account to be submitted to the Registrar by the liquidator*.—The liquidator shall during the term of his office present to the Registrar at the expiry of every three months an account in Form H, of his receipts and payments as liquidator.

50. *Time and manner for sending instrument under section 125*.—A copy of the instrument referred to in section 125 shall be sent to the Registering Officer within a period of three months from the date of execution of the instrument by Registered Post or by delivering the same by hand to the Registering Officer at any time during office hours

CHAPTER VI

(2) PROCEDURE IN APPEALS UNDER SECTION 153

51. *Procedure of appeal*.—(1) Every appeal under section 153 shall be in the Form of a memorandum, which shall—

- be either type written or written in ink in legible hand;
- specify the name and address of the appellant and also the name and address of the respondent or the opponent as the case may be;
- state whether the order complained of was made by the Registrar or by any person other than the Registrar on whom the powers of Registrar are conferred;
- clearly state the grounds on which the appeal is made;
- state precisely the relief which the appellant claims;
- state the date of the order or decision appealed against.

(2) An appeal shall be presented in person by the appellant or by his duly appointed agent to the appellate authority during office hours or sent by registered post.

52. *Procedure after presentation of appeal*.—(1) On receipt of an appeal the appellate authority shall examine it and if it is found that it is in order as provided in sub-rule (1) of rule 51, it shall be registered in the appropriate register maintained for this purpose.

(2) If the appeal is found to be defective in certain respect, the appellate authority may call upon the Appellant within such time not exceeding 15 days in any case as may be specified to remedy the formal defects pointed out in the appeal.

(3) If the party concerned or his agent fails to remedy the defects within the prescribed time, the appellate authority shall fix a date for preliminary hearing of the appeal of which due notice shall be given to the party concerned.

(4) On the date fixed under sub-rule (3) the appellate authority shall hear the party or his agent, if present, and pass orders either directing that the appeal be admitted or rejecting the appeal. Where the appeal is rejected, the appellate authority shall record its reasons for doing so.

53. *Notice to respondent or opponent*.—After an appeal is admitted, a notice shall be delivered or sent by registered post to the respondent or an opponent calling upon him to appeal before the appellate authority on the date specified in the notice. The notice shall also declare that if he does not appear before the appellate authority either in person or through an agent on the date specified in notice or on any subsequent date to which the hearing may be adjourned, the appellate authority shall hear and decide the appeal *ex-parte*.

54. *Procedure at the hearing*.—On the date fixed for hearing or on any other date to which the hearing may be adjourned, the appellant or his agent, or if permitted by the appellate authority, his pleader shall ordinarily be heard first in support of his appeal. The respondent or the opponent or his agent or, if permitted by the authority, his pleader, shall if necessary be heard next; and in such case the appellant or his agent or his pleader shall be entitled to reply.

55. *Hearing in absence of the party*.—(1) If on the date fixed for hearing or on any other day to which the hearing may be adjourned the appellant does not appear either in person or by his agent or pleader when the appeal is called for hearing, the appellate authority may dismiss the appeal or may decide it on merits, after hearing the respondent or opponent or his agent or pleader, if present.

(2) If, on day fixed for hearing or any other day to which the hearing may be adjourned, the respondent or opponent does not appear either in person or through his agent or pleader, if permitted, when the appeal is called for hearing the appellate authority may decide the same on the merits after hearing the appellant or his agent or pleader if he be present.

55A. *Restoration of appeals decided ex-parte*.—If any of the parties was absent at the date of hearing and the appeal was heard and decided *ex-parte*, the party concerned may apply for restoration of appeal and if the party satisfies the appellate authority that he had no notice of the date of hearing or that he was prevented

from any sufficient cause from appearing when the appeal was called for hearing the appellate authority may restore the appeal to its file :

Provided that where the other party has appeared in the appeal, such party shall be given notice and an opportunity of being heard before the order of restoration of the appeal is made.

56. *Fresh evidence and witnesses.*—(1) No party to an appeal shall be entitled to adduce fresh evidence whether oral or documentary before the appellate authority. The appellate authority may accept documents tendered by a party or call for the same. If it is of the opinion that they are necessary for deciding the appeal, provided that the other party shall in that case be entitled to produce rebutting evidence.

(2) If the Appellate Authority is of opinion that any witness should be examined, it may do so, if it is necessary for deciding the appeal.

(3) Where fresh evidence has been adduced under sub-rule (1) or a witness has been examined as provided in sub-rule (2) the parties may, if they so desire address the appellate authority on points arising out of the fresh evidence or the deposition of the witness.

57. *Adjournment.*—The appellate authority may on such terms as it thinks fit and at any stage, adjourn the hearing of any appeal.

58. *Procedure in the case of death of one of several appellants or of sole appellant.*—If an appellant dies, while the appeal is pending and it cannot be proceeded with unless his legal representative is made a party to the appeal, the appellate authority shall adjourn further proceedings to enable his legal representative to appear and apply for being made a party. If the legal representative fails to do so within 90 days from the date on which the appellant or opponent dies, the appeal shall abate as regards the deceased and if he be the sole appellant, the appeal shall be dismissed. It shall be proceeded with as regards the remaining appellants.

59. *Procedure in case of death of one of several respondents or opponen's or sole respondent or opponent.*—If respondent or opponent dies while the appeal is pending, and it cannot be proceeded with unless his legal representative is made a party to the appeal, the appellant, shall apply to the appellate authority for making the legal representative of such respondent or opponent a party to the appeal within 90 days from the date on which the respondent or opponent dies. If the appellant fails to do so, the appeal shall abate as regards the deceased. If the deceased be the sole respondent or opponent, the appeal shall be dismissed. In any other case it shall be proceeded with as regards the remaining respondents or opponents.

60. *No abatement by reason of death after hearing.*—Notwithstanding anything contained in Rules 58 and 59 there shall be no abatement by reason of the death of any party, between the conclusion of hearing and the pronouncement of the judgement, but the judgement may in such case be pronounced notwithstanding the death, and shall have the same force and effect as it had been pronounced before the death took place. No legal representative need be made party in such case.

61. *Determination of legal representative.*—If a question arises in any appeal whether a person is or is not of a legal representative of a deceased party, such question may be determined by the appellate authority in a summary way after taking evidence, if necessary.

62. *Procedure in case of assignment.*—In any case where the business of a party to an appeal before the appellate authority is, during the pendency of it, assigned or devolves wholly or in part to or upon some other person or society, the appeal may, by leave of the appellate authority, be continued by or against such person or society.

63. *Abatement or dismissal for failure of a legal representative to apply in time may be set aside.*—A person claiming to be a legal representative of a deceased appellant or assignee or receiver of an insolvent appellant may apply within 60 days from the date of abatement or dismissal of the appeal to have the abatement or dismissal set aside, and if it is proved to the satisfaction of the appellate authority that he was prevented by sufficient cause from appearing within time, the abatement or dismissal shall be set aside by appellate authority and the appeal proceeded with.

64. *Procedure in case of insolvency.*—If a party to an appeal becomes insolvent and his estate becomes vested in the assignee or receiver, the latter may, by leave the appellate authority be made a party to the appeal.

65. *Pronouncement of judgement of costs of appeal.*—(1) When the hearing of the appeal is complete, the appellate authority shall pronounce its judgement forthwith or shall fix the date of the same. Such date shall be notified on the notice board of the appellate authority.

(2) Every judgement of the appellate authority shall be in writing.

(3) The appellate authority shall in his judgement state at the end, whether the appeal is dismissed or allowed to wholly or in part and mention, the relief, if any, granted to the appellant.

(4) The costs of the appeal shall be in the discretion of the appellate authority. In its final order, the appellate authority shall state who shall bear the cost and in what proportion, if any.

66. *Supply of certified copies.*—Certified copies of the judgement shall be supplied free of cost on application to the parties concerned.

CHAPTER VII

PROCEDURE FOR THE RECOVERY OF CERTAIN SUMS BY ATTACHMENT AND SALE OF PROPERTY OF DEFAULTER UNDER SECTION 159

67. *Application.*—(1) Any decree holder desiring to recover any amount or sum mentioned in sub-section (1) of Section 159 may make an application to the Recovery Officer and shall deposit the necessary costs on a scale specified by the Registrar.

(2) Every such application shall be made in the Form specified by the Registrar and shall be signed by the decree holder. The decree holder may indicate whether he wishes to proceed against the immovable property mortgaged to the decree holder or other immovable property or to secure the attachment of movable property.

(3) On receipt of such application, the Recovery Officer shall verify the correctness and genuineness of the particulars set forth in the application with the record, if any, in the office of the Registrar and prepare a demand notice in writing, in duplicate, in the Form specified by the Registrar setting forth the name of the defaulter and the amount due and forward it to the Sale Officer.

Explanation.—For the purpose this Chapter the term "Decree Holder" shall mean and include any person who is entitled to any sum of money recoverable under section 159(1) of the Act.

68. *Order in which proceedings shall be taken.*—Unless the decree holder has expressed a desire that proceedings should be taken in particular order, the execution shall ordinarily be taken in the following manner :

(i) Movable property of the defaulter shall be first proceeded against but this shall not preclude the immovable property being proceeded against simultaneously in the case of necessity.

(ii) If there is no movable property, or if the sale proceeds of the movable property attached sold are insufficient to meet in full the demand of the decree holder, the immovable property mortgaged to the decree holder, or other immovable property belonging to the defaulter may be proceeded against.

69. *Distress by Sale Officer.*—(1) The Sale Officer shall after giving previous notice to the decree holder, proceed to the village or town where the defaulter resides or the property to be distrained is situated and serve a demand notice upon the defaulter if he is present. If the amount due together with the expenses be not at once paid, the Sale Officer shall make the distress and shall immediately deliver to the defaulter a list of inventory of the property distrained and an intimation of place and date and hour at which the distrained property will be brought to the sale if the amounts due are not previously discharged. If the defaulter is absent, the Sale Officer shall serve the demand notice on some adult member of his family or on his authorised agent or when such service can not be effected, shall affix a copy of the demand notice on some conspicuous part of his residence. He shall when proceed to make distress and shall fix the list of the property attached on the usual place of residence of the defaulter, endorsing thereon the place where the property may be lodged or kept and an intimation of the place, day and hour of sale.

(2) The distress shall be made after sun rise and before sun set and not at any other time.

(3) The distress levied shall not be excessive, i.e., to say, the property distrained shall be as nearly as possible pro-

portionate to the sum due by the defaulter together with interest and all other expenses incidental to the distrained, detention and sale.

(4) It shall be lawful for the Sale Officer to force open any stable, cow-house, granery, godown, out house or other building and he may also enter any dwelling house, the outer door of which may be open and may break open the door or any room in such dwelling house for the purpose of attaching property, belonging to a defaulter and lodged therein, provided always that it shall not be lawful for the officer to break open or enter apartment in such dwelling house appropriated for the zenana or residence of women except as provided in sub-rule (5).

(5) Where the Sale Officer may have the reason to suppose that the property of a defaulter is lodged within a dwelling house the outer door of which may be shut or within any apartments appropriated to women which by the custom or usage are considered private, the Sale Officer shall represent the fact to the Officer-in-Charge of the nearest Police Station. On such representation the Officer-in-charge of the said police station shall send a Police Officer to the spot in the presence of whom the Sale Officer may force to open the outer door of such dwelling house, in like manner as he may break open the door of any room within the house except the zenana. The Sale Officer may also, in the presence of a Police Officer, after due notice given for the removal of woman within zenana and after furnishing means for their removal in a suitable manner (if they be women, who, according to the custom or usage cannot appear in public) enter the zenana apartments for the purpose of distraining the defaulters property, if any, deposited therein, but such property, if found, shall be immediately removed from such apartments after which they shall be left free to the former occupants.

70. *Custody of distrained property.*—(1) After the distress is made, the Sale Officer may arrange for custody of the property attached with the decree holder or otherwise.

(2) If the Sale Officer requires the decree holder to undertake the custody of the property he shall be bound to do so and any loss incurred owing to his negligence shall be made good by the decree-holder. If the attached property is livestock, the decree holder shall be responsible for providing the necessary food therefor.

(3) The Sale Officer may, at the instance of the defaulter or of any person claiming an interest of such property, leave it in the village or place where it was attached, in the charge of such defaulter or person, if he enters into a bond in the form specified by the Registrar with one or more sufficient surities for the production of the property when called for.

71. *Manner of dealing with distrained crops.*—If crops or ungathered products of the land belonging to the defaulter are attached, the Sale Officer may cause them to be sold when fit for reaping or gathering, or at his option may cause them to be reaped, or gathered in due season and stored in a proper place until sold. The expenses of reaping or gathering and storing such crops or products shall be defrayed by the owner upon his redeeming the property or from the proceeds of the sale in the events of its being sold.

72. *Distrained cattle or property not to be used.*—The Sale Officer shall not work the bullocks or cattle or make use of the goods or effects distrained. He shall provide the necessary food for the cattle or livestock but the expense attending which shall be defrayed by the owner upon his redeeming the property or from the proceeds of the sale in the event of its being sold.

73. *Proclamation of time and place of sale.*—(1) The Sale Officer shall on the day previous to and on the day of sale cause proclamation of the time and place of the intended sale to be made by beat of drum in the village or town in which the defaulter resides and in such other place or places as the Officer may consider necessary to give due publicity to the sale.

(2) No sale shall take place until after the expiration of the period of 15 days from the date on which the notice has been served or affixed in the manner prescribed in Rule 69 :

Provided that where the property seized is subject to speedy and natural decay, or where the expense of keeping it in custody is likely to exceed its value, the Sale Officer may sell it at any time before the expiry of the said period of 15 days, unless the amount due is sooner paid.

74. *Manner of conducting sale.*—(1) At the appointed time, the property shall be put up in one or more lots, as the Sale Officer may consider advisable, and shall be disposed off to the highest bidder :

Provided that it shall be open to the Sale Officer to decline to accept the highest bid where the price offered appears to be unduly low or for other reasons.

(2) Where the property sold for more than the amount due the excess amount, after deducting the interest and the expenses of process and other charges, shall be paid to the defaulter.

(3) The Recovery Officer or the Sale Officer may in his discretion, adjourn the sale to a specified day and hour according his reasons for such adjournment. Where a sale is so adjourned for a longer period than 7 days, fresh proclamation under Rule 73 shall be made unless the judgement debtor consents to waive it.

75. *Payment of property purchased.*—The property shall be paid for in cash at the time of sale or at such time as the Sale Officer may appoint and the purchaser shall not be permitted to carry away any part of the property until he has paid for it in full. Where the purchaser fails in the payment of purchase money, the property shall be resold.

76. *Restoration of property by court.*—Where it is proved to the satisfaction of any civil court of competent jurisdiction that any property which has been distrained under these rules, has been forcibly or clandestinely removed by any person, the court may order forthwith such property to be restored to the Sale Officer.

77. *Cancellation of order of attachment on payment of money.*—Where prior to the day fixed for sale, the defaulter or any person acting on his behalf or any person claiming an interest, in the property attached pays the full account due including interest, allowances and other costs incurred in attaching the property, the Sale Officer shall cancel the order of attachment and release the property forthwith.

78. *Property exempt from attachment.*—The movable property mentioned as exempt from the attachment in the proviso of section 60 of the Code of Civil Procedure, 1908 shall not be liable to attachment or sale under these rules.

79. *Attachment of salary or allowances of public servants.*—Where the movable property to be attached is the salary or wages or allowances of a public officer or of a servant of a railway company or local authority or a firm or a company, the Recovery Officer may, on receiving a report from the Sale Officer, order that the amount shall subject to the provisions of section 60 of the Code of Civil Procedure, 1908, be withheld from such salary or as the Recovery Officer may direct and upon notice of the order, the Officer or other persons whose duty is to disburse such salary or allowance or wages shall withhold and remit to the Sale Officer, the amount due under the Order or the monthly instalment as the case may be.

80. *Attachment of share or interest in movables.*—Where the property to be attached consists of the share or interest of the defaulter in movable property belonging to him and another as co-owners the attachment shall be made by a notice to the defaulter, prohibiting him from transferring his share or interest or charging it in any way.

81. *Attachment of negotiable instruments.*—Where the property to be attached is a negotiable instrument not deposited in a court, and not in the custody of a public officer, the attachment shall be made by actual seizure and the instrument shall be brought to the office of the Recovery Officer ordering the attachment and be held subject to his further orders.

82. *Attachment of property in custody of court or public servant.*—Where the property to be attached is in the custody of any court or public officer, the attachment shall be made by a notice to such court or an officer requesting that such property and any interest or dividend becoming payable thereon may be held subject to the further orders of the Recovery Officer issuing the notice.

83. *Attachment of decree.*—(1) Where the property to be attached is a decree either for the payment of money or for sale for enforcement of a mortgage or charge, the attachment shall be made by the order of the Registrar.

(2) Where the Registrar makes an order under sub-rule (1) he shall on the application of the decree holder who has attached the decree, proceed to execute the attached decree and apply the net proceeds in satisfaction of the decree sought to be executed.

(3) The holder of a decree sought to be executed by the attachment of another decree of the nature specified in sub-rule (1) shall be deemed to be the representative of the holder of the attached decree and to be entitled to execute such attached decree in any manner lawful for the holder thereof.

(4) Where the property to be attached in execution of a decree is a decree other than the decree of a nature referred to in sub-rule (1) the attachment shall be made by the issue of a notice by the Recovery Officer to the holder of such decree, prohibiting him from transferring or charging the same in any way.

(5) The holder of a decree attached under this rule shall give the Recovery Officer executing the decree such information and aid as may reasonably be required.

(6) On the application of the holder of a decree sought to be executed by the attachment of another decree, the Recovery Officer making an order of attachment under this rule shall give notice of such order to the judgement debtor bound by the decree attached, and no payment or adjustment of the attached decree made by the judgement debtor in contravention of such order after receipt of notice thereof, either through the said recovery officer or otherwise, shall be recognised so long as the attachment remains in force.

84. *Attachment of debt, etc.*—(1) Where the movable property to be attached is a debt due to the defaulter in question, or a share in the capital of a corporation or a deposit invested therein, on other movable property not in possession of the defaulter except property deposited in or in the custody of any Civil Court, the attachment shall be made by a written order signed by the Recovery Officer.

(2) In the case of a debt, such order shall prohibit the creditor from recovering the debt and the debtor from payment thereof.

(3) In the case of a share of deposit, such order shall prohibit the person in whose name the share or deposit may be standing from transferring the share of deposit or receiving any dividend or interest therein.

(4) In the case of any other movable property such order shall prohibit the person in possession of it from giving it over to the defaulter.

(5) A copy of such order shall be sent in the case of the debt to the debtor, in the case of share or deposit to the proper officer of the corporation and in the case of other movable property (except as aforesaid) to the person in possession of such property. (As soon as the debt or the deposit matures the Recovery Officer may direct the person concerned to pay the amount to him. Where the share is not withdrawable, The Recovery Officer shall arrange for its sale through a broker. Where the share is withdrawable its value shall be paid to the said Recovery Officer or to the party concerned as soon as it becomes movable. In the case of other movable property the person concerned shall place in the hands of the said Recovery Officer as it becomes deliverable to the defaulter.

PROCEDURE FOR SALE OF IMMOVABLE PROPERTY

85. *Attachment before sale.*—Immovable property shall not be sold in execution of a decree unless such property has been previously attached.

Provided that where the decree has been obtained on the basis a mortgage of such property it shall not be necessary to attach it.

86. *Application to state description of immovable property.*—Where it is proposed to recover the amount by sale of immovable property, the application presented under Rule 67 shall contain the description of the immovable property to be proceeded against sufficient for its identification and in case such property can be identified by boundaries or numbers in a record of settlement or survey, the specification of such boundaries or numbers and the specification of the defaulter's share or interest in the search property to the best of the knowledge of the decree holder and so far as he has been able to ascertain it.

87. *Mode of service of demand notice.*—The demand notice to be prepared by the Recovery Officer under Rule 67 shall contain the name of the defaulter, the amount due including the expenses, if any, and the batta to be paid to the person who shall serve the demand notice, the time allowed for payment and in case of non-payment, the particulars of the property to be attached and sold or to be sold without attachment as the case may be. After receiving the demand notice the Sale Officer shall sell or

cause to be served copy of the demand notice upon the defaulter or upon some adult male member of his families and his usual place of residence or upon his authorised agent or, if such personal service is not possible, shall affix a copy thereof, on some conspicuous part of the immovable property about to be attached and sold without attachment, as the case may be provided that where Recovery Officer is satisfied that the defaulter with intent to defeat or delay the execution proceeding against him is about to dispose of the whole or any part of his property the demand notice shall not allow any time to the defaulter for payment of the amount due by him and the property of the defaulter shall be attached forthwith.

88. *Procedure when the defaulter neglects to pay.*—If the defaulter fails to pay the amount specified in the demand notice within the time allowed the Sale Officer shall proceed to attach and sell, or sell without attachment, as the case may be, the immovable property noted in the application for execution.

89. *Mode of attachment.*—Where attachment is required before sale, the Sale Officer, shall if possible, cause a notice of attachment to be served on the defaulter personally. Where personal service is not possible, the notice shall be affixed on some conspicuous part of the defaulter's last known residence if any. The fact of attachment shall also be proclaimed by beat of drum or other customary mode on or at some place adjacent to such property and at such place or places as the Recovery Officer may consider necessary to give due publicity to the sale. The attachment notice shall set forth that, unless the amount due with interest and expenses be paid within the date therein mentioned, the property will be brought to sale. A copy shall be sent to the decree holder. Where the Sale Officer so directs the attachment shall also be notified by public proclamation in the official gazette.

90. *Proclamation before sale.*—Proclamation of sale shall be published by affixing a notice in the office of the Recovery Officer and the Taluk Office at least thirty days before the date fixed for the sale and also by beat of drum in the village on two consecutive days previous to the date of sale and on the day of sale prior to the commencement of the sale. Such proclamation shall where attachment is required before sale be made after the attachment has been effected. Notice shall also be given to the decree holder and the defaulter. The proclamation shall state the time and place of sale and specify as fairly and accurately as possible :—

- (i) the property to be sold;
- (ii) any encumbrance to which the property is liable;
- (iii) the amount for the recovery of which sale is ordered, and
- (iv) every other matter which the Sale Officer considers material for a purchaser to know in order to judge the nature and value of the property.

91. *Sale of public auction.*—When any immovable property is sold under these rules, the sale shall be subject to the prior encumbrances on the property, if any, and the decree holder shall when the amount for the realisation of which the sale is held exceeds Rs. 100.00 furnish to the Sale Officer within such time as may be fixed by him or by the Recovery Officer, an encumbrance certificate from the registration department for the period of not less than 12 years prior to the date of attachment of the property sought to be sold or in case falling under the provision to Rule 85 prior to the date of attachment of the application for execution. The time for the production of the encumbrance certificate may be extended at the direction of the Sale Officer or the Recovery Officer as the case may be. The sale shall be by public auction to the highest bidder provided that it shall be open to the Sale Officer to decline to accept the highest bid where the price offered appears to be unduly low or for other reasons and provided also that the Recovery Officer or the Sale Officer may in his discretion, adjourn the sale to a specified day and hour, recording his reasons for such adjournment. Where the sale is so adjourned for a longer period than 7 days, a fresh proclamation shall be made, unless the judgement debtor consents to waive it. The sale shall be held after the expiry of not less than 30 days calculated from the date on which notice of the proclamation was affixed in the office of the Recovery Officer. The time and place of sale shall be fixed by the Recovery Officer and the place of sale shall be the village where the property to be sold

is situated or such adjoining prominent place of public resort as may be fixed by the said Recovery Officer. Provided that in cases where an encumbrance certificate is not obtainable owing to the destruction of the connected records, an affidavit from the Talati in regard to the encumbrances known to him supported by certificate from the Registration Department that the encumbrance certificate cannot be grabbed owing to the destruction of the connected records, shall be accepted in the place, of an encumbrance certificate.

92. *Deposit by purchaser and re-sale on default.*—A sum of money equal to fifteen per cent of the price of the immovable property shall be deposited by the purchaser in the hands of the Sale Officer at the time of the purchase and in default of such deposit the property shall forthwith be resold. Provided that where the decree holder is the purchaser and is entitled to set off the purchase money under Rule 97, the Sale Officer shall dispense with the requirements of this rule.

93. *Time for payment of balance of purchase money.*—The remainder of the purchase money and amount required for general stamp for the sale certificate shall be paid within 15 days from the date of sale.

Provided that the time for payment of the cost of the stamp may for good and sufficient reasons, be extended at the discretion of the Recovery Officer upto 30 days from the date of sale.

Provided further that in calculating the amounts to be paid under this rule, the purchaser shall have the advantage of any set off to which he may be entitled under Rule 96.

94. *Procedure in default of payment.*—In default of payment within the period mentioned in Rule 93, the deposit, may, if the Recovery Officer, thinks fit after defraying the expenses of the sale be paid to the decree holder and the defaulting purchaser shall forfeit all claims to the property or to any part of the sum for which it may subsequently be sold.

95. *Notification of re-sale.*—Every re-sale of immovable property in default of payments of the amounts mentioned in Rule 94 within the period allowed for such payment, shall be made after the issue of a fresh proclamation in the manner and for the period hearing before, prescribed for the sale.

96. *Procedure when the decree holder purchases property.*—Where a decree holder purchases the property the purchase money and the amount due on the decree shall be set off against one another, and the Sale Officer shall enter satisfaction of the decree in whole or in part accordingly.

97. *Release of property on payment of amount due.*—Where prior to the date fixed for a sale the defaulter or any person acting on his behalf or any person claiming an interest in the property sought to be sold tenders payment of the full amount due together with interest, and other expenses incurred in bringing the property to sale, including the expenses of attachment, if any, the Sale Officer shall forthwith release the property after cancelling where the property has been attached the order of attachment.

98. *Application to set aside sale on depositing amount due.*—(1) Where immovable property has been sold by the Sale Officer, any person either owning such property or holding an interest therein by virtue of a title acquired before such sale may apply to have the sale set aside on his depositing with the Recovery Officer for payment to the decree holder, the amount of arrears specified in the proclamation of sale as that for the recovery of which the sale was ordered together with interest thereon and the expenses of the attachment, if any, and sale and other costs due in respect of such amount less any amount which may since the date of such proclamation have been received by the decree holder.

(2) If such deposit and application are made within 30 days from the date of sale, the Recovery Officer shall pass an order setting aside the sale and shall repay to the purchaser the purchase money so far as it has been deposited by the applicant :

Provided that if more persons than one have made deposit and application under this sub rule, the application of the first depositor to the officer authorised to set aside the sale, shall be accepted.

(3) If a person applied under rule 100 to set aside the sale of immovable property, he shall not be entitled to make an application under this sub rule.

99. *Application to set aside sale on ground of irregularity or fraud.*—(1) At any time within 30 days from the date of the sale of immovable property, the decree holder or any person entitled to share in rateable distribution of the assets or whose interests are affected by the sale may apply to the Recovery Officer to set aside the sale on the ground of a material irregularity or mistake or fraud in publishing or conducting it :

Provided that no sale shall be set aside on the ground of irregularity or fraud unless the said Recovery Officer is satisfied that the applicant has sustained substantial injury by reason of such irregularity, mistake or fraud.

(2) If the application is allowed, the said Recovery Officer shall set aside the sale and may direct a fresh one.

(3) On the expiration of 30 days from the date of sale if no application to have the sale set aside is made or if such application has been made and rejected, the said Recovery Officer shall make an order confirming the sale :

Provided that if he shall have reason to think that the sale ought to be set aside notwithstanding that no such application has been made or on grounds other than those alleged, if any, on the application which has been made and rejected, he may, after recording his reasons in writing, set aside the sale.

(4) Whenever, the sale of any immovable property is not so confirmed or is set aside the deposit or the purchase money, as the case may be, shall be returned to the purchaser.

(5) After the confirmation of any such sale, the said Recovery Officer shall grant a certificate of sale bearing his seal and signature to the purchaser.

(6) Such certificate shall state the property sold and the name of the purchaser and it shall be conclusive evidence of the fact of the purchase in all courts and tribunals in which it may be necessary to prove it and no proof of the seal or signature of the Recovery Officer shall be necessary unless the authority before whom is produced shall have reason to doubt its genuineness.

(7) An order made under this rule shall be final and shall not be liable to be questioned if any suit or other legal proceedings.

100. *Delivery of possession.*—Where any lawful purchaser of any immovable property is resisted and prevented by any person other than a person (not being the defaulter) claiming in good faith to be in possession of the property on his own account from obtaining possession of the immovable property purchased, any court of competent jurisdiction on application, and production of the certificate of sale provided for by Rule 99 shall cause the proper process to be issued for the purpose of putting such purchaser in possession, in the same manner as if the immovable property purchased has been decreed to the purchaser by a decision of the court.

101. *Sale of immovable property to be proportionate to amount due.*—It shall be lawful for the Sale Officer to sell the whole or any portion of the immovable property of the defaulter in discharge of money due :

Provided that so far as may be practicable, no larger section or portion of immovable property shall be sold than may be sufficient to discharge the amount due with interest and expenses of attachment if any and sale.

102. *Private alienation of property after attachment to be void.*—Where an attachment has been made under these rules, any private transfer or delivery of the property attached or of any interest therein and any payment to the defaulter of any debt, dividend or other moneys contrary to such attachment shall be void as against all claims enforceable under the attachment.

Explanation.—For the purpose of this rule, claim enforceable under the attachment include claims for the rateable distribution of assets under Rule 109.

103. *Process server to be paid allowances.*—Persons employed in serving notice or in other process under these rules shall be entitled allowances at such rates as may from time to time be fixed by the Recovery Officer.

104. *Interest and other charges recoverable from sale proceeds.*—Where the costs and charges incurred in connection with attachment and sale of movable property or the attachment or sale or sale without attachment of immovable property under these rules, exceeds the amount of the cost deposited by the decree holder under Rule 68. Such excess shall be deducted from the sale proceeds of

the property sold or the moneys paid by the defaulter, as the case may be, and the balance shall be made available to the decree holder.

105. *Receipt for payment.*—Every person making a payment towards any money due for the recovery of which application has been made under these rules shall be entitled to a receipt for the amount signed by the Sale Officer or other Officer empowered by the Recovery Officer in that behalf, such receipts shall state the name of the person making the payment and the subject-matter in respect of which the payment is made.

106. *Investigation of claims and objections to attachment of property.*—(1) Where any claim is preferred to, or any objection is made to the attachment of, any property attached under these rules on the ground that such property is not liable to such attachment, the Sale Officer shall investigate the claims or objections and dispose of it on the merits :

Provided that no such investigations shall be made when the Sale Officer considers that the claim or objection is frivolous.

(2) Where the property to which the claim or objection relates has been advertised for sale, the sale officer may postpone the sale pending the investigating of the claim or the objection.

(3) Where a claim or objection is decided the party against whom an order is made may institute a suit within six months from the date of the order to establish the right which he claims to the property in dispute, but, subject to the result of such suit, if any, the order shall be conclusive.

107. *Deficiency of price on resale recoverable from defaulting purchaser.*—(1) Any deficiency of price which may happen on a resale held under Rule 95 by reason of the purchaser's default and all expenses attending such resale shall be certified by the Sale Officer to the Recovery Officer and shall, at the instance of either the decree holder or the defaulter, be recoverable from the defaulting purchaser under the provisions of these rules. The costs, if any, incidental to such recovery shall also be borne by the defaulting purchaser.

(2) Where the property on the second sale, is sold for a higher price, than at the first sale, the defaulting purchaser at the sale shall have no claim to the difference or increase.

108. *Determination of attachment.*—Where any property has been attached in execution of a decree, but by the reason of the decree holders' default the Recovery Officer is unable to proceed further with the application of execution, he shall either dismiss the application or for any sufficient reason adjourn the proceedings to a future date. Upon the dismissal of such application the attachment shall cease.

109. *Rateable distribution of assets.*—(1) Where the Sale Officer attaches or has attached under these rules, any property not in the custody of any court, which is already under attachment made in execution of a decree of any court, such court shall receive and realise such property and shall determine claims thereto and any objections to the attachment thereof :

Provided that where the property is under attachment in the execution of decree of more courts than one, the court which shall receive and realise such property or shall determine any claim thereto and any objection to the attachment thereof shall be the court of the highest grade, or where there is no difference in grade between such courts, the court under whose decree the property was first attached.

(2) Where assets are held by the Sale Officer and before the receipt of such assets, demand notices in pursuance of application for execution of decree against the same defaulter have been received from more than one decree holder and the decree holders have not obtained satisfaction, the assets after deducting the costs of realisation, shall be rateably distributed by the Sale Officer among all such decree-holders in the manner provided in section 73 of the code of civil procedure, 1908.

110. *Death of defaulter before execution.*—Where a defaulter dies before the decree has been fully satisfied an application under Rule 68 may be made against the legal representatives of the deceased and thereupon all the provisions of these rules shall save otherwise provided in this rule, apply as if such legal representative were the defaulter. Where decree is executed

against such legal representative, he shall be liable only to the extent of the property of the deceased which has come to his hands and has not been duly disposed of; and for the purpose ascertaining such liability the Recovery Officer for executing the decree may, of his own motion or on the application of the decree holder, compel such legal representative to produce such accounts as he thinks fit.

111. *Agreement under section 158.*—An agreement under section 158 shall be in Form J.

FORM A (See Rule 3)

To

The Registrar Co-operative Societies,

We the undersigned, whose names and addresses are contributed are desirous of being formed into a co-operative society with limited/unlimited liability and hereby make an application under sub-section (i) of section 8 for registration under section 9 of the Gujrat Co-operative Societies Act, 1961 as extended to the Union Territory of Dadra and Nagar Haveli. We are enclosing herewith necessary four copies of the proposed bye-laws as agreed upon and duly signed by us.

Particulars of information regarding the proposed society are as under :—

1. Name of the proposed society.
2. Address to be registered (including the nearest post office).
3. Is liability limited or unlimited.
If limited state its extend.
4. Area of operations.
5. Objects of the society.

6. State whether the application belong to different families and whether they are related to each other such as a wife, husband, father, mother, grand-father, grand-mother, step-father, step-mother, son, daughter, step-son, step-daughter, grand-son grand-daughter, brother, sister, half-brother, half-sister, wife of brother of half-brother.

7. If the capital is to be raised by shares state the value and number of shares to be issued, along with the list of shares subscribed and paid.

8. State what is the total amount of share capital collected and deposited in a Bank or its branches and whether the balance certificate is enclosed with the application.

9. In case of federal societies, where the applicants are societies and companies, state whether they have enclosed copies of resolution authorising them to sign the application and the bye-laws and state whether they are members of the managing committee of their society or company. If the applicant is a firm, state whether he is a partner of that firm.

10. State the amount of preliminary expenditure incurred by the promoters till the date of the application and estimate of expenditure likely to be incurred by them thereafter with a view of getting the society registered.

11. State the name of the chief promoter and his address where the correspondence is to be directed.

12. State the language in which the Books and Account will be maintained by the society.

Sl. No.	Full name of the applicant	Age	Profession or Occupation	Place of Residence village & taluka	Signature
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FORM 'B' (See Rule 4)

Register of Co-operative Societies registered or deemed to be registered.

Part..... District.....

Registered Sr. No.	Full name & address of the Society	Taluka	Date of registration
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File No.	Class of society as per section	Sub classes	Page No. & date of Govt. Gazette Notifying registration
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Registered Sr. No.	Full name & address of the society	Initial of Registrar	Date of winding up by the Registrar
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Page No. and date of Govt. Gazette notifying winding up.	No. & date of cancellation	Initial of the officer authorised by Registrar to keep the register	Remark
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FORM 'C' (See Rule 7)

From

The Registrar of co-operative societies,

To

Sir,

Whereas it is necessary/desirable in the interest of your society to amend by way of addition/alteration/abrogation the following bye-laws of your society :

- (1)
- (2)
- (3)
- (4)
- (5)
- (6)

Notice is hereby given to you calling upon to convene a special general meeting of your society within.....for consideration of the same.

Yours faithfully,
(SIGNATURE)

FORM 'D' (See Rule 10)

Application for reconstruction of a society.

To

The Registrar of Co-operative Societies,

In the special general meeting of..... society at, Taluka District called for the purpose of reconstruction of the society, the society has approved a compromise arrangement with its creditors and/or members on the following lines—

- (1) By reducing the claims of creditors.
- (2) By reducing the value of the share capital.
- (3) By re-valuation of assets.

A detailed scheme worked out on the above lines is enclosed with a copy of the resolution passed by the special general meeting of the society referred to above. We would request that the scheme of reconstruction of the society may please be approved and orders issued to that effect.

Chairman/Member/Creditor/Liquidator
.....Society

FORM 'E' (See Rule 27)

I (age,) residing at having been admitted to the membership of Ltd., with unlimited liability unlimited, with limited liabilities and being desirous of borrowing/having borrowed loan from the society before the date of the coming into force of The Gujarat Co-operative Societies Act, 1961, as extended to the Union Territory of Dadra and Nagar Haveli make this declaration as required by section 49 of the Gujarat Co-operative Societies Act, 1961, that I own land have interest in land specified in the Schedule and I hereby create a charge on the said land interest in favour of the society for the payment of the amount of the loan which the society may make/has made and for all future advances, if any, which the society may make to me subject to the maximum, of amount of Rs.....together with interest on such amount of the loan and advance.

SCHEDULE

Name of village	Name of Taluka	Name of District
-----------------	----------------	------------------

Survey Number City Survey No. Plot No. Pot Hissa	Boundaries	
	South East	North East

Area acres Gunthas	Nature of Interests in land if any,	Assessment Rs. nP.
--------------------	-------------------------------------	--------------------

Approximate value	Encumbrances if any Nature Amount	Remarks if any
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In witness whereof I, Shri.....hereunder set my hand thisday ofin the year one thousand nine hundred andsigned and delivered by the abovename in the presence of Witnesses :

(1)Applicant's/Borrower's Signature.

(2)Attested by.....

Forwarded with compliments to the Village Officer, with a request to include the particulars of the charge.....under the declaration in the Record of Rights and to return to the society for its record.

Chairman/Secretary.
..... Society.

Returned with compliments to the Chairman Society Limited/Unlimited. The charge created under the declaration is duly included in the Records of Rights on the.....day of.....19 ..

Village Officer.

FORM 'F' (See Rule 42)

In the Court of

1. Name

Chairman

Secretary

of the Co-operative/Credit Society on behalf of the Managing Committee of the said society.

age, residence	Occupation	Plaintiff.
1. Name	Versus	
age		
occupation	residence	
2. Name	age	Defendant
occupation	residence	
3. Name	age	
occupation	residence	

The above-named Plaintiff, duly authorised on behalf of the.....Co-operative Credit Society state as follows :—

(1) On the day of 19..... the co-operative society lent the Defendant No. 1, who is a member of the said Co-operative Credit Society. Rs. repayable on the day of 19....., with interest at the rate of per cent and with penal interest under bye-laws..... at the rate of per cent from the claim with defendant No. 1 under the agreement.

(2) The defendant has not paid the same except Rs. paid on the day of 19.....

(3) The loan was paid to the Defendant at the office of the said society in the village of..... which is within the jurisdiction of this Court and the cause of action arose on; the date of default.

(4) The bond of defendant is attached and also a duly certified copy of his khata in the account-books of the society as evidence under section 41 of the Act and under rule 23 of the Dadra and Nagar Haveli Co-operative Societies Rules, 1965.

(5) The plaintiff requests exemption from the limitation period under sub-section (3) of section 97.

(6) The value of the subject matter of the suit for the purposes of jurisdiction is Rs. and for the purpose of court fee is Rs.

(7) The plaintiff claims as under :—

(a) The principal amount of Rs. with interest Rs. at the rate of per cent from the day of 19....., up to the day of filing the suit total Rs. together with interest at same rate from the date of the suit till the date of payment of the amount claimed.

(b) Costs of the suit (Signed)

Date..... Co-operative Credit Society.

I, Plaintiff, verify on my own knowledge that the facts stated in paragraphs number are true and the facts mentioned in paragraph number are stated upon information received and believed to be true.

Date..... (Signed)

Place..... Co-operative Credit Society

Filed in the Court on..... day of..... 19.....

..... Chairman
Secretary
Co-operative Credit Society.

FORM 'G' [See Rule 44(5)]

Form of certificate for transfer of property under section 105

In the case of immovable property :—

Whereas in execution of the award or awards passed under section of an order or order made by a Liquidator under section..... of the Gujarat Co-operative Societies Act, 1961, as extended to Union Territory of Dadra and Nagar Haveli..... in favour on the..... day of 19....., for sale of the under-mentioned property of the person or persons (Defaulter or defaulters) and whereas the Court of the Collector or the Registrar is satisfied that the said property cannot be sold for want of buyers.

It is hereby ordered under section 105 of the said Act that the right title and interest of the defaulter shall vest in the said society and shall be delivered to the society subject to the terms and conditions laid down in the Schedule hereto annexed.

DESCRIPTION OF PROPERTY

Survey No.	Area and assessment	Nature of right title and interest of the defaulter	Details of encumbrances to which property is subject
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The said property is transferred to the society in full—partial satisfaction of the amount due to it from the defaulter.

Given under my hand and seal of the Court or Collector or the Registrar this day of 19.....

Court or Collector or Registrar.

In the case of movable property :—

(The form will be similar with necessary changes as regards the description and the delivery of the property).

FORM 'H' (See Rule 49)

Name of Society:—

Date of winding up order:—

Quarter ending:—

A. Opening Cash Balance: -	Rs.	nP.	Rs.	nP.
1. In hand.				
2. In Bank.				
(1)			(2)	

B. Realizations during quarter :—

- (1) loans collected.
- (2) investments called in.
- (3) sale of dated stock etc.
- (4) miscellaneous.

Cash
Total
.....

C. Paid out during quarter :—

- (1) loans repaid with interest—
 - (a) Government.
 - (b) Other.
- (2) deposits repaid with interest.
- (3) salaries and other outstanding debts of the society.
- (4) expenses of liquidation.
- (5) legal expenses.
- (6) miscellaneous.

Cash
Total
.....

BALANCE

(1) in hand
(2) in bank
.....

D. Remaining assets :—

- (1) loans outstanding.
- (2) investments.
- (3) value of dead stock etc.
- (4) miscellaneous.

Total
.....

E. Remaining liabilities :—

- (1) deposits repayable.
- (2) loans repayable—
 - (a) government;
 - (b) others.
- (3) salaries.
- (4) miscellaneous debts.

Total
.....

ADDITIONAL INFORMATION

Name of the Liquidator :—

1. Total Liabilities on the date of winding up :

Deposits :—Members.	Rs.
Non-members.	Rs.
Societies	Rs.

State Co-operative Bank Ltd.,

Total Financial Agency

Miscellaneous.

Rs.

Rs.

Rs.

Rs.

Total Rs. _____

2. Total recoveries up to the end of previous quarter.
Principal.

Interest.

Rs.

Liquidation charges.

Rs.

Rs.

Total Rs. _____

3. Balance of assets to be recovered Rs.

4. Balance of liabilities to be paid Rs.

5. Whether order are passed in all cases.

If not how many are remaining?

Reason why no orders are passed.

Dated : 19 .

Forwarded with compliments to the Registrar, Co-operative Societies.

Liquidator

Co-operative Societies

FORM 'J' (See Rule 111)

Agreement-in-power of attorney

THIS AGREEMENT IS MADE day of 19..... BETWEEN s/o of village P.O. Taluka the 'applicant' which expression shall unless repugnant to the context or meaning thereof include his heirs, executors, administrators and assigns of the one part AND Co-operative Farming Society Limited (hereinafter called "the Society", which expression shall unless repugnant to the context or meaning thereof include its successors and assigns of the other part.

WHEREAS the applicant has applied for the membership of the society AND WHEREAS the society has agreed to admit the applicant as a member of the society subject to the rules and bye-laws of the society and on the terms and conditions hereinafter contained. IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES hereto as follows :—

1. The applicant hereby agrees to place at the disposal of and hand over to the society those pieces or parcels of the land in possession of the applicant and described in the Schedule hereunder written, for a period of five years from the date hereof for the purpose of joint farming by the society and has accordingly handed over possession of the said pieces or parcels of land described in the Schedule hereunder written to the society for the said purpose.

2. The applicant hereby appoints the said Co-operative Farming Society limited as his agent and attorney and authorises it to mortgage the applicant's said piece or parcels of land or any of them along with land of other member or members of the society or otherwise to secure repayment of any loan or loans that may be raised by the said society for carrying out its objection on such terms and conditions as the society may deem fit and for the purpose the necessary deed of mortgage provided, however, that neither the applicant personally nor any of his other property outside the pool shall be liable, for the payment of any amount payable under the said mortgage deed or other documents except to the extent to which the applicant may be liable as a member of the society. AND it is hereby further agreed and declared that the appointment of the society as the agent and attorney of the applicant and the authority conveyed on the society to mortgage the applicant's land as aforesaid is irrevocable as long as the applicant continues to be a member of the society.

3. In the event of the applicant ceasing to be a member of the society or on the expiry of the said period of five years the applicant shall accept such pieces or parcels of land which the society may offer to the applicant, if the society for any reason whatsoever considers it undesirable to return member's said pieces or parcels of land or any of them provided however, that the land offered by the society shall have equivalent productivity as the land belonging to the applicant and retained by the society had at the time of joining the society. If the lands retained are subject to any encumbrances created prior to pooling the value of the lands offered by the society to the applicant shall be reduced the amount payable on the outstanding encumbrances and the society will clear the said encumbrances.

4. If the applicant on ceasing to be a member of on the expiry of the said period of five years desires payment in cash in respect of the said pieces or parcels described in the Schedule hereunder or any of them or in respect of land retained by the society and in lieu of which land of equivalent productivity is offered by the society is agreeable to make such payment, the society shall pay to the applicant such amount as may be agreed to between the applicant and the society in respect of the said land less any amount that may be payable by the applicant in respect of any outstanding encumbrances created on the said land prior to pooling and the applicant shall on such payment execute the necessary conveyances, transfer deeds or other assurances for conveying the transfer of such lands to the society or its nominees. The society shall then pay off the encumbrance.

5. In the event of the society offering land belonging to the applicant, the applicant shall execute the necessary conveyances, transfer deeds or other assurances for conveying and transferring the land retained by the society to the society or its nominee and the society shall execute or get executed by the owner or owners of the land offered to the applicant, the necessary conveyances, transfer deed or other assurances for conveying and transferring the said land to the applicant.

6. As long as the applicant is a member of the society the society shall pay to the applicant such return as may become payable under the bye-laws and the applicant shall also be entitled to all other rights and privileges as may be provided in the bye-laws of the society.

7. The applicant hereby further agrees to pay such compensation as may be determined by the General Body of the society for improvements effected on the said lands described in the Schedule or any of them if the applicant is given back the said lands described in the Schedule or any of them provided however, that such compensation shall be payable only in respect of the land of which possession is handed back to the applicant. The productivity of any land and the value of improvements effected on the land of a member shall be calculated in accordance with the provisions made therefor, in the bye-laws of the society.

8. If any dispute or difference shall arise between the parties hereto touching this agreement or the construction or operation thereof or the rights, duties, or liabilities of either party accrued hereunder, such dispute or difference shall be decided in accordance with the provisions contained in the Co-operative Societies Act under which the society is registered or any other modification of re-enactment thereof. IN WITNESS WHEREOF THE said has hereunto set his hand and on behalf of the Co-operative Farming Society Limited set his hand the day and the year first above written.

SCHEDULE ABOVE REFERRED

Signed by the said in the presence of.

1.
2.

Signed by the on behalf of Co-operative Farming Society Ltd, in the presence of.

1.
2.

No. ADM./LAW-98—In exercise of the powers conferred by Sections 26, 41, 42, 51 and 76 of the Indian Forest Act, 1927 (XVI of 1927) and of all other powers enabling him in this behalf, the Administrator of Dadra & Nagar Haveli is pleased to make the following rules :—

The Dadra and Nagar Haveli Forest Rules, 1966

CHAPTER I

PRELIMINARY

1. *Short title and extent.*—These rules shall be called the Dadra and Nagar Haveli Forest Rules, 1966, and shall apply to the Union Territory of Dadra and Nagar Haveli.

2. *Interpretation.*—In these rules, unless there is any thing repugnant in the subject or context :

- (a) "Act" means the Indian Forest Act, 1927;
- (b) "Section" means a section of the Act;
- (c) All words and expressions used but not defined in these rules shall have the meaning assigned to them in the Act.
- (d) Prescribed means prescribed by or directed by under any notification, resolution, order, circular etc. by the Central Government or the Administrator, from time to time.

CHAPTER II

PROTECTION OF RESERVED FORESTS FROM FIRES

[Section 26(1)(b)]

3. *Kindling etc. of fires on roads or paths adjoining or passing through reserved forests prohibited.*—Except at such places as may from time to time be notified locally by the Chief Forest Officer, no person shall kindle any fire or leave any fire burning upon any public or private road or path which adjoins or passes through a reserved forest but does not form part of such forest.

4. *Precautions to be taken in making ash-manure near a Reserved Forest.*—No person shall ignite materials for making ash-manure in any field within two hundred yards from the boundary of a reserved forest, unless

- (i) there is, between such boundary and the spot on which such materials are ignited, a space, at least 25 feet in width which is clear of vegetation capable of carrying fire from such spot to the forest; and
- (ii) such other precautions, such as employing watchers, are taken as are reasonably necessary to prevent fire from spreading to the forest.

5. *Kindling of fire within 200 yards from a reserved forest prohibited.*—Except for the purposes of making ash-manure, no fire shall be kindled elsewhere than in a place used as a human dwelling or in premises appertaining to such dwelling, within a distance of two hundred yards from the boundary of a reserved forest, without the previous written permission of a Forest Officer not lower in rank than a Range Forest Officer.

6. *Precautions to be taken in kindling fire beyond 200 yards from a reserved forest.*—No person shall kindle any fire, or leave any fire burning, at a place which is at a distance greater than 200 yards from the boundary of a reserved forest but from which the fire may by natural means spread to the forest, unless he takes precautions, by clearing a fire-path not less than twenty-five feet in width between such place and such boundary, or by employing watchers or otherwise, to prevent the fire from so spreading.

7. *Partial operation of rules in the rainy season.*—Nothing in the rules in this chapter shall operate during the period commencing on the 15th June and ending on the 31st October.

CHAPTER III

HUNTING AND SHOOTING ETC. IN RESERVED FORESTS

[Section 26(i) and 76(d)]

8. *Acts prohibited in reserved forests.*—The following acts are prohibited in all reserved forests :

- (a) the poisoning of rivers or other waters, the explosion of dynamite or other explosive therein, and the setting of cruives or basket traps for the purpose of killing or catching fish;
- (b) the setting of spring guns, snares or traps;
- (c) the catching, wounding or killing of—
 - (i) game, other than carnivora, bear or pig, over water, salt-licks, or paths leading directly to water or salt-licks;

- (ii) Such animals as may from time to time be notified in this behalf by the Administrator.

- (d) shooting from a motor vehicle except in the case of small game, and wild dogs and pigs; and

- (e) shooting after sunset and before sunrise, except in the case of—

- (i) small game and wild pigs, and
- (ii) tigers and panthers, from machans over live or killed ties:

Provided that any of the above acts may be done with the written permission of the collector, or, in the case of snares or traps, of the Chief Forest Officer.

NOTE (1) :—For the purpose of this rule the work "Carnivora" include tiger, panther, wolf, hyena and wild dogs; the words "small game" include all game birds and hare; and "reserved forests" include all roads and tracks within such forests.

9. *Regulation of fishing and netting in rivers.*—It shall be in the discretion of the Administrator, or of the Chief Forest Officer subject to the Administrator's approval, to prohibit from time to time fishing and netting in any specified lengths of any rivers, except on issue of a licence in the case of individuals, or of a general sanction to the residents of any village or villages, to fish and net in the portion so specified, and the Administrator may also from time to time regulate by notification the size of mesh that may be employed in netting rivers for the capture of fish.

CHAPTER IV

PASTURING OF CATTLE IN RESERVED FORESTS

Sections 26(1)(d), 26(2)(a) and 76(d)

10. *Pasturing of cattle in Forests prohibited except in areas specifically assigned and except under a permit.*—No person shall pasture cattle in reserved forest—

- (a) except within the areas assigned for such purpose by, or under order of the Administrator, and
- (b) without obtaining a permit from a forest officer which shall be granted on payment of the fee prescribed by the Administrator and except in accordance with the conditions subject to which such permit has been granted.

CHAPTER V

TRANSIT OF FOREST PRODUCE

(Section 41)

A. Forest Passes

11. *Regulation of transit of forest-produce by means of passes.*—No forest produce shall be moved into, of from, or within the area of Dadra & Nagar Haveli, except as hereinafter provided, without a pass from some officer or person duly authorised by or under these rules to issue such pass, or otherwise than in accordance with the conditions of such pass or by any route or to any destination other than the route or destination specified in such pass:

Provided that no pass shall be required for the removal—

- (a) except to a bunder, landing place or railway station—

- (i) of any forest produce which is being removed for private consumption by any person, in exercise of a privilege granted in this behalf by Administrator or of a right recognised under the Act, within the limits of a village as defined in the Land Revenue Law prevalent at the time in Dadra and Nagar Haveli, in which it is produced,

- (ii) of twigs, leaves, brushwood and grass intended solely for conversion into ash-manure,

- (iii) of such small branches as are given gratis from departmental cuttings solely for private consumption,

- (b) of firewood not exceeding eight centimeters in diameter at the thickest part, grass or leaves, the property of one person or the joint property of two or more persons which is conveyed in quantities not exceeding one head load once in 24 hours unless brought to a bunder, landing place or railway station or to any areas to which the Administrator, Dadra and Nagar Haveli may from time to time declare by notification in the Central Government Gazette that this exemption shall not extend, or

(c) of such forest produce as may be exempted by the Administrator, Dadra and Nagar Haveli from the operation of the rules in this chapter by notification in the Central Government Gazette.

12. *Officers and persons to issue passes:*

(1) The following officers and persons shall have power to issue passes under these rules (namely):—

Officers

(a) for forest produce from land which is not included in a reserved forest and is more than ten miles distant from a reserved forest, the Patel Talati;

(b) for forest produce from land other than that described in clause (a) the Administrator, the Collector, the Chief Forest Officer or any other officer including a Patel Talati, authorised in this behalf in writing by the Administrator, the Collector or the Chief Forest Officer;

Other persons

(c) for forest produce owned by any person, such person or his agent, if so authorised in writing by the Collector or by the Chief Forest Officer; provided that such authorization shall specify the period during which it shall remain in force:

Provided that the Administrator, may require that for Mhowra Flowers to be removed from any specified area passes shall be issued by the local Excise Officer not below the rank of Sub-inspector.

(2) Any authorization may at any time be cancelled by the officer granting it.

13. *Passes what to contain:*

(1) Every forest pass issued under rule 12 shall specify:

- (a) the name of the person to whom such pass is granted;
- (b) the quantity and description of forest-produce covered by it;
- (c) in the case of forest-produce referred to in clause (a) of sub-rule 1 of rule 12, the name of the village and survey number in which it was produced;
- (d) the places from and to which such forest-produce is to be conveyed;
- (e) the route by which such forest-produce is to be conveyed; and
- (f) the period of time for which the pass is to be in force, which shall be calculated as follows:—
the day of issue PLUS, in the case of transport by a motor vehicle, a day for transit to any point upto 80 miles or fraction thereof, and, in the case of any other form of transport, a day for transit to any point upto 15 miles from the village of origin PLUS an additional day for every additional 15 miles or fraction thereof.

(2) The colour and form of each pass and the sum to be paid in respect of each book of forest passes will be such as may be prescribed by the Administrator, or any other officer not below the rank of the Collector, duly authorised by the Administrator.

14. *Separate pass for each load.*—No forest pass shall ordinarily cover more than one load, whether such load be carried by a person, or animal or vehicle. But the Chief Forest Officer, subject to the control of the Administrator may, whenever he deems fit, order that one pass may cover any number of cartloads not exceeding 10 for journeys not exceeding 15 miles from and to the same place and undertaken at one and the same time.

15. *Pass not to be tampered with.*—No alteration shall be made in any thing printed or written on any forest pass except in the matter of route and period and this may only be done by an office authorised to issue passes under rule 12 for sufficient reason to be mentioned in the pass.

B. *Passes issued by private persons*

16. *Blocks of blank passes to be supplied to persons authorised to issue them.*

(1) When the Administrator or the Chief Forest Officer authorises any person or the agent of any person under clause (c) of sub rule (1) of rule 12 to issue forest passes, he shall furnish such person from time to time with authenticated books of blank passes.

(2) The said person to whom such book is supplied shall pay the sum, if any, fixed under 13(2).

(3) No person who has been authorised to issue passes shall issue passes otherwise than in accordance with the conditions of his authorisation.

(4) No such person shall charge any fee for any pass issued.

(5) Counterfoils of used passes to be returned.—The counterfoils of all used passes shall be returned to the officer from whom the book of passes was received and no fresh pass book shall be supplied except for reasons to be recorded by issuing officer until the counterfoils of all passes previously used have been so returned.

(6) Counterfoils to be produced for inspection on demand:—Any person or the agent of any person who has been authorised to issue forest passes under clause (c) of sub-rule (1) of rule 12 shall be bound if called upon by any forest officer to produce for inspection or to give up the counterfoils of all passes which have been issued by such person or agent.

(7) Procedure on cancellation or expiry of authority to issue passes:—

In the event of any authority given under clause (c) of sub-rule (1) of rule 12 being at any time cancelled under sub-rule (2) of the said rule or on the expiry of the period specified in such authority, the person whose authority is so cancelled or the person, the period of whose authority has so expired, as the case may be, shall forthwith return to the officer who gave the authority every unused book of forest passes and the unused portion of any such book in his possession, if any, which he has not already returned, and the said person shall be entitled when he has returned all such unused books or portions thereof and the counterfoils of used passes as aforesaid, to receive a refund of the amount paid by him in respect of every such unused book but no refund shall be allowed in respect of any portion of such book.

(8) Forest passes issued by private persons when invalid:

No forest pass issued by any person or by the agent of any person authorised under clause (c) of sub-rule (1) of rule 12 to issue forest passes shall have any validity;

(a) if such pass is not prepared on a blank form supplied for this purpose under sub-rule (1) of rule 16 or

(b) if the same is issued after receipt by such person of an order cancelling the authority to issue such passes, or

(c) if the same is issued by such person after the expiry of the period specified in the authority given for the issue of such passes.

C. *Forest Produce imported in or transported through Dadra and Nagar Haveli*

17. *Foreign pass:*

All forest-produce imported in or transported through Dadra and Nagar Haveli territory shall be covered by a foreign pass registered under rule 18, and, in the case of timber exceeding the dimensions mentioned in rule 26 bear a foreign property mark registered under rule 18.

18. *Form etc. of foreign passes must be registered in the office of the Chief Forest Officer:—*

Every foreign pass must be in form which, and must be signed by an official whose designation, have been registered in the office of the Chief Forest Officer, Dadra and Nagar Haveli and every foreign property mark must be of a description which has been registered in the said office.

“Provided that at the request of any State Government the forest produce from such State may be allowed to be imported into the territory of Dadra and Nagar Haveli.

(i) if the import of such forest produce is covered by a foreign pass signed by a contractor or his agent whose specimen signature shall have been registered in the office of the Chief Forest Officer, Dadra and Nagar Haveli, and

(ii) if the office stamp of the official of the State, who is authorised by the State Government to issue books of foreign passes to contractors for the export of the forest produce to the territory of Dadra and Nagar Haveli, is affixed to or imprinted on the pass under which the forest produce is sought to be imported.”

19. Chief Forest Officer may refuse to register signature:

The Chief Forest Officer may, for reasons to be recorded in writing, refuse to register the specimen signature of any contractor or his agent.

20. Imported forest-produce may be conveyed to first depot without a pass under rule 12:—

Any forest-produce which is imported may be conveyed within the limits of the Dadra and Nagar Haveli as far as the first depot established under rule 23 without a pass issued under rule 12, if it is covered by a foreign pass as required by rule 18, and if stacked or deposited in any place between such limits and such depot the foreign pass covering the material shall at once be delivered at that depot.

21. Chief Forest Officer may direct use of a transit mark for imported timber:—

If the Chief Forest Officer shall so direct, no timber exceeding the dimensions mentioned in rule 26 and which has been imported as aforesaid shall be moved beyond such first depot, without first having stamped upon it a Government transit mark of such description as the Chief Forest Officer shall prescribe.

D. Saving of recognised privileges

22. Saving of recognised privilege:

Nothing in rule 11 to 21 inclusive shall be deemed to require or to have required the possession of a pass in cases where exemptions from such possession for enjoyment of certain privileges recognised by the Administrator, by a notification issued from time to time have been granted before the passing of the rules.

E. Forest Depots

23. Depots and their purposes :

The Chief Forest Officer may establish at such places as he shall think fit, depots to which forest produce shall be taken—

- (a) for examination previous to the grant of a pass in respect thereof under these rules; or
- (b) for determining the amount of money, if any, payable on account thereof to Government; and for the payment of any money so found to be due; or
- (c) in order that any mark required by law or by these rules to be affixed thereto may be so affixed.

24. Situation of depots to be published:

The Chief Forest Officer, shall make known from time to time locally in such manner as he deems fit, the name and situation of each depot in Dadra and Nagar Haveli.

25. Depots to be in charge of an officer :

Each depot shall be in charge of an officer appointed by or under the orders of the Chief Forest Officer without whose permission no forest produce shall be brought into, stored at or removed from the depot.

F. Property and Transit Marks

26. Property and transit marks to be affixed to timber exceeding a certain size:

Except when it is the property of Government timber exceeding 12 inches in girth at the thickest part and 183 centimeters in length shall not be moved from or within any area of Dadra and Nagar Haveli unless it bears a distinguishable private property mark of the owner of such timber of a description which has been registered in the office of the Chief Forest Officer and also if the Chief Forest Officer so directs unless it bears a Government transit mark of such description as shall from time to time be prescribed in this behalf by the Chief Forest Officer.

27. Registration of forms of passes or marks:

The Chief Forest Officer shall upon receipt of an application for registration of any form or mark for the purpose of rule 26 enquire into the authenticity of the same, and if he sees no objection, shall, on payment by the applicant of such fee as shall from time to time be prescribed by the Administrator in this behalf, register such form or mark in his office. Every such registration shall hold good for a period of one year only, except in the case of forms and marks of Government authorities, the registration of which shall hold good till they are modified or replaced by new forms or marks.

28. Government marks not to be imitated or effaced:

No person other than a forest officer whose duty is to use such marks shall use any property mark for timber identical with, or nearly resembling, any Government transit mark, or any mark with which timber belonging to Government is marked, and no person shall, while any timber is in transit under a pass issued by any person or by the agent of any person authorised in this behalf under clause (c) of sub-rule (1) of rule 12, alter or efface any mark on the same.

G. Stoppage in transit

29. Forest produce in transit may be stopped and examined by certain officers :

(1) Forest-produce in transit may be stopped and examined any place by any forest, police or revenue officer if such officer shall have reasonable grounds for suspecting that any money which is due to Government in respect thereof has not been paid, or that any forest offence has been or is being committed in respect thereof,

Provided always that no such officer shall vexatiously or unnecessarily delay the transit of any forest produce which is lawfully in transit, nor vexatiously or unnecessarily unload any such forest produce, or cause the same to be unloaded, for the purpose of examination.

(2) The person in charge of such forest-produce shall furnish to any such officer all the information which he is liable to give regarding the same, and if he is removing the same under a pass, on demand, produces it for the inspection of such officer, and shall not in any way prevent or resist the stoppage or examination of the said forest-produce by such officer.

H. Obstruction of Channels

30. Prohibition of the obstruction of channels or banks of rivers.—No person shall close up or obstruct channel or any portion of the bank of any river lawfully used for the transit of forest-produce, or throw grass, brushwood, branches or leaves into any such river, or do any other act which may cause such river to be closed or obstructed.

31. Measures to be taken for removal of obstructions.—(1) Chief Forest Officer may take such measures as he shall at any time deem to be emergently necessary for the prevention or removal of any obstruction of the channel, or any part of a bank of a river lawfully used for the transit of forest produce; but any such case which is not emergent shall be reported to the Administrator who may by written notice, require the person whose act or negligence has caused or is likely to cause the obstruction, to remove or take steps for preventing the same within a period to be named in such notice, may himself cause such measures to be taken as he shall deem necessary.

(2) The cost reasonably incurred by a forest officer or by the Administrator under this rule shall be payable to the Administration by the person whose act or negligence has necessitated the same.

I. Conversion of Timber within certain distance of Forests

32. Prohibiting conversion of timber within certain distance of forests. (1)—(i) Within the limits of any reserved forest or of any land in respect of which a notification under section 4 declaring that it has been decided to constitute such land as reserved forest has been issued, and within one mile of such limits, no person shall establish a saw pit for the cutting or converting of timber or manufacture charcoal without the previous sanction in writing of the Range Forest Officer; or

(ii) Within the limits of any reserved forest or of any land referred to in clause (i) and within twenty miles of such limits, no person shall erect or operate any machinery or saw mill for cutting, or converting of timber, without obtaining a licence in that behalf.

(2) Any person desiring to establish a saw pit or to manufacture charcoal under clause (i) or to erect or operate any machinery or saw mill under clause (ii), of sub-rule (1), shall make an application in that behalf to the Range Forest Officer and the Chief Forest Officer, respectively;

Provided that where within a period of one month from the date of the application, the applicant fails to receive the sanction under clause (i) of sub-rule (1), the applicant may proceed to establish the saw-pit or to manufacture

charcoal, but not so as to contravene any of the provisions of the Act or any rules made thereunder.

(3) On receipt of an application under sub-rule (2), the Range Forest Officer, or, as the case may be the Chief Forest Officer, shall make such inquiry as he deems fit and after satisfying himself on the question whether or not there would be any objection to granting the sanction or licence applied for having regard to safeguarding the timber in any reserved forest or in any land referred to in sub-rule (1) may grant the sanction or licence in the form in Schedule B subject to the conditions set out therein, or refuse to grant the sanction or licence.

(4) Every licence granted or renewed under this rule shall, subject to the provision contained in this rule, regarding cancellation, be effective for a period not beyond the 31st day of December next following the date of its issue or renewed.

(5) The Chief Forest Officer may, on application made to him, renew the licence issued under sub-rule (3) with effect from the date of its expiry.

(6) A fee of rupees twenty-five shall be payable for the grant or renewal of a licence under this rule.

(7) An application for renewal of a licence shall be made before the expiry of the period of the licence, and operation of any machinery or saw-mill without renewing a licence after the expiry thereof will render the licensee liable to punishment for a contravention of this rule.

(8) Notwithstanding anything contained in the foregoing sub-rules, the Chief Forest Officer may, where he has reason to believe that a licensee is operating the saw-mill in contravention of the provisions of these rules and conditions of the licence or the licensee is indulging in activities prejudicial to the interest of Forest Conservancy at any time, after giving notice to the party of the grounds on which it is proposed to take such action revoke the licence granted under this rule.

(9) Where the Chief Forest Officer refuses to issue, or renew, or revokes, a licence granted under this rule, he shall do so by an order communicated to the applicant or holder, as the case may be, giving reasons in writing for such refusal or revocation.

(10) Any person aggrieved by an order made under sub-rule (9) may, within thirty days of the service on him of the order, appeal to the Collector, Dadra and Nagar Haveli who shall decide the appeal after giving such person and the Chief Forest Officer making the order, an opportunity of being heard, and the decision of the Collector, Dadra and Nagar Haveli, shall be final.

(11) Nothing contained in this rule shall apply to the ordinary operations of domestic carpentry or to other similar work on a small scale.

J. Exclusion of Local Areas from Applicability of Rules

33. *Local areas to which the rules are not applicable to be published.*—The Administrator may by notification in the Government Gazette exempt from the operation of the rules contained in this chapter any local area specified in such notification.

CHAPTER VI

TREES IN OCCUPIED LANDS

(Section 41 and 76)

A. Preservation, Protection and Exploitation of Reserved and other trees in occupied lands.

34. *Reserved trees.*—The expression "reserved trees" in this chapter shall include teak, shishum, nihowra, khair, tanach, and sandalwood, original Sadad and other trees or their af-cr-growth, the right of the Central Government to which has been reserved under the provisions of Organizacao Agraria of Nagar Haveli or rules made thereunder.

35. *Cutting etc. of reserved trees in occupied lands prohibited except when permitted.*—No person shall cut, lop, or in any way injure, appropriate or remove any reserved trees, or any loppings thereof, which is grown or growing on lands belonging to or in occupation of private persons, or knowingly or wilfully permit or abet the cutting, lopping, injuring, appropriating or removing of the same by any other person, without having first obtained permission in accordance with the rule in this chapter.

36. *Purchasers of reserved trees not to be obstructed in cutting and removing them.*—(1) No person shall obstruct any purchaser, lessee or other transferee of the trees mentioned in rule 35 in cutting, lopping, injuring, appropriating or removing such trees when the cutting, lopping, injuring or removing of such trees is done by the purchaser, lessee or transferee or any person acting on his behalf with previous permission of the Administrator or the Chief Forest Officer.

(2) *Administrator and other officers may assist purchasers in cutting and removing reserved trees.*—It shall be lawful for the Administrator, any Forest Officer or Police Officer to render assistance to a purchaser lessee or other transferee of such trees on any person acting on his behalf in the cutting, lopping, injuring, appropriating or removing the same.

37. *Occupants responsible for preservation of reserved trees.*—Every occupant or holder of land shall be responsible for the due preservation of all reserved trees growing on the land and shall, in the event of an injury to any such tree from whatever cause, as soon as possible report such fact to the nearest local Revenue or Forest Officer.

38. *Royalty to be paid before cutting or removal of reserved trees and permission required for cutting etc. of certain other timber.*—(1) No person shall—

(a) cut or remove reserved trees without paying the royalty prescribed by the Administrator or value thereof and without obtaining a receipt for such payment passed by a Forest Officer empowered by the Administrator in this behalf.

(b) Without obtaining permission from the Chief Forest Officer, the grant of which shall be subject to such condition as the Administrator may from time to time prescribe, (i) cut or uproot reserved trees or remove timber obtained from reserved or unreserved trees, of the species mentioned in column No. 2 of the Schedule A hereto annexed in or from any area of Dadra and Nagar Haveli.

(2) Nothing contained in sub-rule (1) shall be deemed in any way to modify or cancel any order regarding reservation of trees made under the provisions of Organizacao Agraria of Nagar Haveli.

39. *Mode of application for permission to cut and remove trees or timber.*—Every person seeking to obtain permission for cutting or uprooting any trees or removing any timber referred to in rule 38 shall apply in writing to the Chief Forest Officer. Every such application shall clearly specify the Alwara and plot numbers, the names of the villages and the number and kind of tree, sought to be cut or uprooted or the kind and quantity of the timber sought to be removed from each Alwara. In case the Alwara containing the trees or timber are held by a number of persons, a joint application shall be made by all the occupants, if however one of the occupants applies for permission, the written consent of the remaining occupants to allow the applicant to cut or uproot the trees or remove the timber shall be appended to the application.

40. *Enquiries to be made by the Chief Forest Officer and grant of permission.*—On receipt of an application under rule 39, the Chief Forest Officer shall make such enquiry as he deems necessary regarding the title of the applicant to the trees or timber, and on the conclusion of such enquiry he shall, unless there is any reason to the contrary and subject to any limitations or conditions prescribed under rule 39 in this behalf, give the permission in writing applied for; provided that in the case of reserved trees the prescribed royalty or value thereof shall be recovered before such permission is granted.

41. *Conditions of the permission to be observed by the applicant.*—Every applicant shall be bound by the conditions contained in the permission granted under rule 40. Such permission shall specify *inter alia* the name of the office to whom the permit is to be shown by the applicant prior to the cutting or uprooting of the trees or removal of the timber and the period within which the trees are to be cut or uprooted or the timber is to be removed.

42. *Cutting etc. to be done after marking.*—On receipt of the permission the applicant shall take it to the officer named therein and shall cut or uproot the trees or remove the timber after they have been marked

by that officer with such hammer mark as may be prescribed for the purpose by the Administrator or the Chief Forest Officer.

43. *Transit rules in chapter V to apply in the matter of removal and conversion.*—The rules in chapter V shall apply in the matter of removal and conversion of the timber referred to in this chapter.

B. Conversion of Trees

44. *Mode of application for conversion of timber.*—If the timber obtained from trees other than sandalwood referred to in rule 39, is to be converted at a place to which the provisions of rule 33 are applicable, the applicant shall apply in writing for permission to the Range Forest Officer giving him the particulars as to the place, time and quantity of timber sought to be converted and such other particulars as may be required by that officer.

45. *Enquiries to be made by Range Forest Officer and issue of sawing permit.*—On receipt of an application under rule 44 the Range Forest Officer shall make such enquiry regarding the timber to be converted and the place where the saw-pit is to be erected and on satisfying himself as to the source and ownership of the timber to be converted and seeing that it is not stolen from the forests, he shall, issue a sawing permit to the applicant.

46. *Conditions to be observed by the applicant.*—The applicant on receipt of the sawing permit shall be bound by the conditions contained therein. Such permit shall specify, *inter alia*, the name of the applicant to whom the permit is given, the place where the saw-pit is to be erected and the period within which the timber is to be converted.

47. *Return of permit.*—On expiry of the period entered in the sawing permit issued under rule 45 the applicant shall return the same to the Range Forest Officer.

CHAPTER VII

DRIFT AND STRANDED TIMBER

(Section 51)

48. *Collection of Drift and Stranded timber and disposal thereafter.*—(1) Any person may collect timber of any of the description set forth in section 45 and, pending the bringing of the same to the proper depot for the reception of drift-timber, may keep the same in his own custody, but he shall report his having done so within twenty four hours to the nearest Forest Officer.

(2) The Forest Officer in charge of the Range in which the timber has been found shall, pending completion of the proceedings under sections 46 to 48 take possession of the timber and unless in his opinion the probable proceeds of the sale of timber are not likely to exceed the cost incurred on collecting it together with the probable cost of conveying it to a depot appointed for the reception of drift-timber, he shall convey the timber to such depot.

49. *Registration of boats for salving and collection timber.*—Any person may register in the office of the Administrator one or more boats for use in salving and collecting timber on payment of a fee one rupee for each boat.

Such registration shall hold good for the period of one year only, but may be repeated from year to year. The unregistered boat will only be used if registered one is not available.

50. *Persons collecting timber entitled to recompense.*—Every person, whether forest officer or not, who collects any such timber, shall be entitled to receive a recompense equal to 50 per centum of the estimated value of the timber such estimate shall be made by any forest officer whom the Administrator specially authorises in this behalf and the recompense shall be paid at once by the Central Government.

Provided in the special cases the Administrator may increase the amount of the recompense to a sum not exceeding 75 per centum of the value of the timber collected.

51. *When collected timber belongs to private person such person to pay all costs.*—If the timber collected shall be proved to be the property of any person other than the Central Government, such person shall be liable to pay to the Central Government under section 50 of the Act the following amounts *viz.*

- (1) On account of salving and collecting the actual amount of recompense paid to the person who collected it;
- (2) On account of moving, the actual cost incurred in moving it to the depot for the reception of drift timber;
- (3) On account of storing, such fees as shall from time to time be fixed by the Administrator for storing of timber at such depot.

52. *No person other than authorised Forest Officer to mark timber.*—No person other than a Forest Officer authorised in this behalf by the Administrator shall mark any timber to which the rules in this Chapter apply.

CHAPTER VIII

POWERS AND DUTIES OF THE ADMINISTRATOR AND FOREST OFFICERS

53. *Administrator to be Chief Controlling Authority.*—Subject to the control and direction of the Central Government, the Chief Controlling Authority in Dadra and Nagar Haveli in all matters relating to Forest Administration, except those mentioned in rule 60, shall be the Administrator.

54. *Duties of the Administrator.*—The Administrator shall be the head of Forest Department. He is empowered to deal with technical question such as operation of sanctioned working plan, fire protection and silvicultural operation, generally. In regard to all matters pertaining to Forest he will be the controlling authority over the Chief Forest Officer.

he shall

- (a) issue orders and instructions to the Chief Forest Officer;
- (b) interpret the orders of the Central Government where any question arises as to the meaning of such orders;
- (c) settle all matters in which any difference of opinion arises between the forest department and any other department;
- (d) promote generally the harmonious working of the Revenue and Forest Department; and
- (e) receive, consider and when such reference is necessary, refer to the Central Government, with his own views in each case, all reports respecting forest matters submitted to him, whether from the Revenue or from the Forest Department.

55. *Collector to be responsible for forest administration.*—The Administrator will exercise his authority and control under rules 53 and 54 through the Collector, Dadra and Nagar Haveli. He may delegate to the Collector all or any of his powers under these rules except such powers as he is required to keep to himself by Law. The Collector, Dadra and Nagar Haveli will be responsible for the forest administration of the Territory and the Chief Forest Officer shall be assistant to the Collector and subject to his orders.

56. *Procedure regarding departmental communications.*—The Chief Forest Officer will address all communications pertaining to forest to the Collector, Dadra and Nagar Haveli.

57. *Chief Forest Officer.*—The Chief Forest Officer will be in charge of the Forest Department of Dadra and Nagar Haveli. He shall assist the Administrator and the Collector in all matters pertaining to Forest Administration including technical matters. Postings, punishment rewards, leave and transfer of subordinate forest establishment shall be made, awarded or granted by the Chief Forest Officer subject to the general control of the Collector and the Administrator.

58. *Powers of Collector and the Chief Forest Officer regarding local supply, public rights, pasture etc.*—In all matters relating to supply of forest produce including grass for the domestic and agricultural requirements of villagers, grazing and the rights and privileges of the people in or in respect of forest, orders shall be issued by the Chief Forest Officer after approval of the Collector.

59. *Forest Compartment not to be closed except under the orders of the Collector.*—No forest compartment shall be closed, whether for planting or reboisement or for punitive purposes, except under the order or with the approval of the Collector.

This rule does not apply to the closure of compartments in accordance with a duly sanctioned working plan.

60. *Orders of Forest Officers to village Officers to be ordinarily sent through Mamlatdar.*—Orders by Forest Officers to village officers shall ordinarily be sent through the Mamlatdar to whom the village-officers are subordinate but may, if urgent, be sent direct, provided that in the latter case a copy of the order shall at the same time be sent to the Mamlatdar as aforesaid.

61. *Forest Guards not to leave beat for report to revenue or police officer.*—No revenue or police officer shall call a forest guard off his beat, nor shall a forest guard have his beat in order to report himself to such officer.

62. *Action to be taken when felling of a compartment is delayed beyond due time.*—(1) If it becomes necessary to delay the felling of a compartment beyond the time at which such felling would according to regular rotation, be due, the Chief Forest Officer shall, subject to the orders of Administrator as regards, deviations from sanctioned working plans, and with the approval of the Collector, make arrangements for meeting the requirements of villagers in the locality.

(2) For such purposes the villagers may, if necessary, and if no other arrangement is practicable, be permitted to enter the compartment, the felling where of has been so delayed and lop for themselves, under the supervision of a forest subordinate appointed for the purpose by the Chief Forest Officer, the material to which, but for such delay, they would have been entitled.

CHAPTER IX

CONTRACTS

[Section 76(d) and 85]

63. *Persons entering into contract with Forest Officers should execute written instrument to perform contract and to pay expenses in case of breach.*—Whoever enters into contract with any Forest Officer or Collector acting on behalf of the Central Government, as prescribed by it, shall if so required by such Forest Officer or Collector, bind himself by a written instrument to perform such contract and to pay to such Forest Officer or Collector on behalf of the President of India the expenses necessary for or incurred in the execution of any work or thing to be done which he has bound himself but has failed to do so.

Explanation.—A person, who makes a written tender for a contract, or who signs the conditions of an auction sale at which he is a bidder, such tender or conditions of sale being on or in a form furnished by a Forest Officer for that purpose, whereby he

(a) binds himself to perform the contract for which he tenders or bids in event of his tender or bid being accepted, or

(b) binds himself not to withdraw his tender or bid during the time that may lapse before its acceptance or refusal is communicated to him,

shall be deemed to have been required by such Forest Officer to bind himself as aforesaid, and in case (a) on the acceptance of his tender or bid or in case (b) on the making of his tender or bid, to have bound himself accordingly, within the meaning of this rule; and any such person need not enter into a separate written instrument for the purpose, unless specifically so required by the Forest Officer with whom he contracts.

CHAPTER X

PENALTIES AND REWARDS

64. *Penalties for breach of certain rules.*—Whoever contravenes the provisions of rules 11, 15, 16(3)(7), 20, 21, 25, 26, 28, 29(2), 30, 32, 46, 48, 52 shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

65. *Rewards out of fines and confiscations.*—The Administrator may authorise payment by way of rewards, of such sum as he deems fit out of the fine recovered or

the proceeds of property confiscated under the Act, to any person by whose assistance the conviction was obtained or the property liable to confiscation discovered.

Provided that except in any case where the Magistrate otherwise directs, the aggregate amount of rewards paid under this rule shall not exceed one half the net proceeds of the fine or confiscation.

SCHEDULE A

[See rule 38(1)(b)(i)]

List of reserved trees in Dadra and Nagar Haveli

Name of territory	Species of trees to which rule 39(1)(b)(i) applies	Area to which rule 39(1)(b)(i) applies
1	2	3
Dadra & Nagar Haveli	(1) Teak. (2) Shishum (3) Sandalwood. (4) Tananch. (5) Khair. (6) Mhowra. (7) Original growth of Sadad.	The entire area Dadra and Nagar Haveli.

"SCHEDULE B"

(See rule 32)

Licence to erect/operate/machinery/saw-mill for cutting or converting of timber.

Registered No.

Licence is hereby granted to Shri— (In Block letters) of.....(address) (hereinafter called "the licensee") to erect machinery/operate saw-mill for cutting/converting of timber at.....subject to the provisions of the Indian Forest Act, 1927, in its application to the territory of Dadra and Nagar Haveli and the rules made thereunder on the following conditions, namely:—

CONDITIONS

1. This licence shall remain in force for the period commencing on.....and ending on the.....196 .

2. The licensee may erect/operate the machinery/saw-mill (hereinafter referred to as "the saw-mill" required for cutting or converting of timber within 20 miles ofat.....
(*Here specify the forest or land)

3. The licensee shall not alter the location of the saw mill without obtaining the prior written permission of the Chief Forest Officer Dadra and Nagar Haveli.

4. The licensee shall maintain such registers and submit such periodical returns as may be directed by the Chief Forest Officer, Dadra and Nagar Haveli.

5. The licensee shall see that:—

(a) the site of the saw-mill including the yard for storage of round timber, sawn timber and waste wood is enclosed within a fence fitted with proper gates.

(b) all the round timber, sawn timber and wood waste is properly stacked according to the instructions that may be issued from time to time by the supervisory staff so as to facilitate stock taking.

(c) timber for sawing or conversion is not accepted unless it bears property mark and is covered by a forest transit pass or other documentary evidence such as a cash receipt from the timber merchant.

